

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Carrier Oversight & Programs Branch**

**RESOLUTION T-17489
November 5, 2015**

R E S O L U T I O N

**Resolution T-17489. Revocation of Operating Authorities of 26
Telephone Carriers for their Failure to Comply with User Fee, Public
Purpose Program Surcharge and Performance Bond Requirements**

SUMMARY

This Resolution revokes operating authorities held by twenty-six (26) wireline telephone carriers listed in Appendices A and B for their failure to comply with two or more of the following California Public Utilities Commission (Commission or CPUC) requirements: a) reporting and remittance of California Public Utilities Reimbursement Account Fee (User Fees) in accordance with Public Utilities (PU) Code §§ 401 through 405; b) reporting and remittance of public purpose programs surcharges in compliance with Decision (D.) 96-10-066; and c) submission of a performance bond as ordered under D. 10-09-017.

BACKGROUND

Operating authorities are issued to telephone carriers by order of the Commission. With the grant of an operating authority, the Commission imposes requirements that a carrier must comply with in order retain its authority. Failure to comply subjects the carrier to suspension or revocation of its operating authority. These requirements include, but are not limited to, the reporting and remittance of User Fees, reporting and remittance of public purpose program surcharges, and the posting of a performance bond.

A. Utility Reimbursement Account Fee (User Fees)

PU Code §§ 401 through 405 require a telephone carrier to report its California intrastate revenues and remit the corresponding amount of User Fees to the CPUC. User Fees are determined by multiplying the carrier's intrastate revenues by a fee factor, which is currently set at 0.18%. Revenues that are subject to User Fees include all intrastate customer revenues from telecommunications services minus uncollectibles. Revenues from the following telecommunications services are exempt from User Fees: a) directory advertising and sales; b) one-way paging; c) terminal equipment sales; and d) inter-carrier sales.

The Commission requires carriers with gross intrastate customer revenues of \$750,000 or less to file annually and carriers with annual gross intrastate revenues in excess of \$750,000 to file quarterly. In D.13-05-035, the Commission established that carriers must remit a minimum of \$100 in User Fees, even if their reportable User Fees amount based on 0.18% of intrastate revenue is less than \$100, or intrastate revenue is zero.¹ If a carrier is in default of the reporting and/or payment of User Fees for more than 30 days, the CPUC may suspend or revoke its operating authority under PU Code § 405.

B. Public Purpose Program Surcharges

California law authorizes the Commission to establish public purpose programs to provide telecommunications services to low-income, deaf and disabled, and rural (or other high-cost) customers.² State law also authorizes the Commission to assess and collect surcharge revenues and disburse the funds to support these programs.³

All telephone carriers and Voice over Internet Protocol (VoIP) service providers are required to collect and remit surcharges to the CPUC. PU Code §§ 270, 275-281, 739.3, and 879 authorize the Commission to collect surcharge revenues to fund the public purpose programs. In D. 84-05-053, D. 94-09-065, and D. 09-10-066, the Commission established a surcharge funding mechanism to fund the CPUC universal service programs. The mechanism requires wireline and wireless telephone carriers to assess a surcharge on revenues collected from end-users for intrastate telecommunications service subject to surcharge. In 2011, the California Legislature passed Assembly Bill 841, now codified as PU Code § 285, authorizing the CPUC to require VoIP service providers to collect and remit surcharge revenues to fund the state universal service programs.⁴

Currently, there are six universal service programs that the CPUC administers and these programs are funded by end-user surcharges, with rates that vary from program to program and adjusted periodically based on the forecasted demand and expenditures of the programs. Telephone carriers that are 90 days or more in arrears of reporting and remitting surcharges may be subject to suspension or revocation of their authority to operate in California.⁵

¹ D. 13-05-035, OP 21; Prior to D.13-05-035, all carriers were required to file an annual User Fee of 0.18% of intrastate revenue or \$100, whichever is greater, but were not required to pay the minimum \$100 if the carrier had no intrastate revenue to report.

² PU Code § 401 *et seq.*

³ PU Code §§ 270, 275, 275.6, 276, 277, 278, 280, 281, 739.39(c), 879(b) and (c).

⁴ PU Code § 285.

⁵ D. 93-05-010.

C. Performance Bond

In D. 10-09-017, the Commission required registration license holders⁶ to obtain a continuous performance bond equal to or greater than ten percent of their intrastate revenues reported on the Commission’s User Fees Statement during the preceding calendar year or \$25,000, whichever is greater. The performance bond must be issued by a corporate surety company that is authorized to transact surety business in California, and the Commission must be listed as the obligee on the bond. The Commission ordered existing registration license holders to submit the performance bond within 90 days after the issuance of D.10-09-017 and within 90 days after the issuance of a registration license for new registration holders.

In Ordering Paragraph (O.P.) 26 of D.10-09-017, the Commission authorized the Communications Division (CD) to prepare for Commission consideration a resolution revoking the registration license of any registration license holder that is more than 120 days late in providing CD’s Director with a copy of its executed performance bond.

In D. 13-05-035, the Commission required all applicants seeking or holding a Certificate Public Certificate and Necessity (CPCN) and wireless carriers seeking or holding a Wireless Identification Resolution (WIR) to post a bond to facilitate the collection of fines, fees, surcharges, taxes, penalties, and restitution. The Commission set the initial bond amount for new and existing CPCN holders and wireless registrants at \$25,000. The Commission also exempted some carriers from this requirement: ⁷

“Carriers of Last Resort (COLRs) including Uniform Regulatory Framework incumbent local exchange carriers, General Rate Case incumbent local exchange carriers, and their wholly-owned or majority owned (51% or more) affiliates or subsidiaries of their corporate parent or holding company, as well as Cox Communications where it serves as a COLR, are exempt from the requirement to obtain a performance bond.”

DISCUSSION

This Resolution revokes the operating authority of 26 wireline carriers that are in default of at least two of the following requirements:

- Reporting and remittance of User Fees;
- Reporting and remittance of surcharges; or

⁶ A “registration license holder,” “registration licensee” or “registrant” is an entity that obtained or obtains interexchange authority pursuant to PU Code § 1013 through the simplified registration process established by D.97-06-107 that does not hold interexchange authority pursuant to PU Code § 1001.

⁷ D.13-03-035, OP 5.

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- Submission of a performance bond.

This Resolution’s Appendices A and B list the decertified carriers. Appendix A lists the carriers in ascending U-number order, and Appendix B lists the carriers by alphabetical order. A carrier is in default of the above-listed requirements if an “x” appears in the categorical columns of the respective appendix lists.

Table 1 summarizes the number of non-compliant carriers by each utility type or line of business. Please note that the majority of listed carriers are classified by more than one utility type:

Table 1

Summary of Non-Compliant Carriers	
Utility Type / Line of Business	No. of Carriers
Competitive Local Carrier and Competitive Local Reseller (CLC & CLR)	2
Competitive Local Carrier and Interexchange Carrier (CLC & IEC)	3
CLC, CLR, and IEC	1
CLC, CLR, and IER	2
CLR only	1
CLR & IEC	1
CLR & IER	3
IEC only	4
IER only	8
Radio Telephone Utility (RTU)	1
TOTAL	26

Of the 26 carriers being proposed for revocation:

- Seventeen (17) of 26 failed to report and remit User Fees and surcharges, and submit a performance bond.
- Eight (8) of 26 failed to report and User Fees and surcharges; and
- One (1) failed to remit User Fees and submit a performance bond. This carrier consistently reported zero intrastate revenue and had no surcharges to pay.

A. User Fees

Under PU 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, with all fees in default due and payable immediately.

CD annually notifies and reminds carriers of the User Fee requirement. CD’s review of the User Fee database demonstrated that all 26 carriers have failed to comply with this requirement.

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B. Public Purpose Program Surcharges

CD notified the subject carriers on numerous occasions of the requirement to report intrastate revenues and pay resulting public program surcharges through the Commission's Telecommunications and User Fees Filing System (TUFFS).

Beginning mid-2013 through mid-2015, CD staff identified and contacted active carriers that failed to report and remit surcharge revenues. Upon being contacted, a number of carriers began to report and pay surcharges accordingly. CD staff then continued to periodically review the TUFFS database to identify carriers for continual compliance, and sent corresponding notice letters via U.S. mail and e-mail to the carriers that failed to comply with the surcharge requirement. Staff also sent follow-up notices to these carriers.

The first round of mailings to non-compliant carriers occurred July 3, 2013 through July 8, 2013. CD staff continued to monitor these carriers, and followed up with them February 26, 2014 through February 28, 2014.

The second round of mailings to non-compliant carriers occurred August 21, 2014 through August 26, 2014. CD staff continued to monitor these carriers and followed up with them September 22, 2014 through September 25, 2014.

The third round of mailings to non-compliant carriers occurred April 15 and April 16, 2015. CD staff continued to monitor these carriers and followed up with them on June 1, 2015. All carriers listed in the attached appendices have failed to report intrastate revenues and pay surcharges for at least twelve (12) consecutive months as of August, 2015.

A review of the 26 carriers being decertified in this Resolution finds that 25 have not remitted surcharges.

C. Performance Bond

CD monitors the compliance of registered carriers with the CPUC performance bond requirement. CD staff undertook the following steps to notify the carriers of their non-compliance:

1. Mailed notices to carriers in October 2014 and March 2015 concerning the performance bond requirement.
2. Identified and prepared a list of carriers that were delinquent in submitting bonds.

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CD determined that 18 of the 26 carriers failed to comply with the Commission's performance bond requirement.

Carrier Compliance During the Resolution's Review Period

Fourteen (14) of the 44 carriers originally listed for decertification became compliant since the service of Draft Resolution T-17489. Four (4) carriers have voluntarily vacated operating authority in California. This leaves 26 carriers listed for decertification. To the extent that any of these carriers have customers in California, we direct them to notify their customers within five (5) days from the effective date of this Resolution that their operating authority in California has been revoked and they will no longer be providing service.

The charts and tables in the Appendices have been updated to reflect the final decertification list.

CONCLUSION

We find that CD staff employed proper and reasonable measures to locate, inform and remind the carriers listed in the appendices of the User Fees, surcharge and performance bond requirements. CD provided ample time and opportunity for them to come into compliance, but they have failed to do so. Thus, we find it reasonable to revoke the operating authority of the 26 carriers listed in the attached appendices effective 30 days after this Resolution is adopted, to allow a period for customer notification. In addition, we concurrently cancel the four-digit Telephone Utility Identification Numbers of these 26 decertified carriers.

We also hereby inform all other telephone carriers in California with valid operating authorities to cease conducting business with the 26 carriers whose licenses have been revoked, beyond thirty (30) days from effective date of this Resolution.

If any of the 26 telephone carriers discussed in this Resolution wishes to reinstate operations in California, the carrier must reapply for a new operating authority and comply with the following requirements: a) comply with the Commission's licensing application rules (e.g. performance bond requirement); b) report all gross intrastate revenue for past periods out of compliance, and c) pay all applicable fees and surcharges including a 25% fine on applicable fees and surcharges for all past periods out of compliance.

Commission staff is authorized to collect a 25% fine on all applicable fees and surcharges from any telephone carrier whose operating license has been revoked and is applying for a new operating authority. The Commission will remit the fine to the State Treasury.

COMMENTS ON THE DRAFT RESOLUTION

In compliance with PU Code § 311 (g), a Notice of Availability was e-mailed on August 18, 2015 to all telephone carriers informing these parties that the draft of this Resolution is available at the Commission's website <http://www.cpuc.ca.gov/> and is available for public comments. In addition, CD informed these parties of the subsequent availability of the conformed resolution, when adopted by the Commission, at the same Commission's website.

Names of the decertified carriers were posted in the CPUC's Daily Calendar for 30 days. Interested parties were invited to contact CD staff with questions or submit written comments on this Resolution.

During the comment period, CD staff received communications from a number of carriers, 14 of whom completed the necessary requirements to achieve compliance. These carriers have been removed from the decertification list.

CD staff also received comments from four (4) carriers that requested removal from the decertification list for various reasons, including

- Voluntarily withdrawing operating licenses
- Identifying specific licensees that have been transferred to another operating authority.⁸

The net effect is that the number of carriers being decertified by this Resolution has decreased from 44 to 26.

FINDINGS AND CONCLUSIONS

1. All 26 telephone carriers listed in Appendices A and B to this Resolution have received an operating authority from the Commission at various times.
2. Public Utilities (PU) Code §§ 401 through 405 require telephone carriers to annually or quarterly report their California intrastate revenues and remit corresponding CPUC Utilities Reimbursement Account Fees (User Fees).
3. In Decision (D). 13-05-035, the Commission set a minimum User Fee amount of \$100 for all telephone corporations holding a Certificate of Public Convenience and Necessity (CPCN) authority or a Wireless Identification Registration (WIR)

⁸ Representatives for TNCI Operating Company LLC (TNCI, U-6265-C) requested affirmation that a prohibition against doing business with Pac-West Telecom (Pac-West, U-5266-C) does not extend to the Pac-West operating agreements assumed by TNCI. CD review indicates that TNCI is compliant with its reporting obligations.

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to be paid annually, even if the telephone corporation reports zero intrastate revenue.

4. PU Code §§ 270, 275-281, 739.3, and 879 authorize the Commission to collect surcharge revenues to fund the public purpose programs.
5. In D. 84-05-053, D. 94-09-065, and D. 09-10-066, the Commission established a surcharge funding mechanism to fund the universal service programs.
6. Telephone carriers are required to assess and remit surcharge revenues collected from end-users for intrastate telephone service subject to surcharge.
7. PU Code § 285 requires Voice over Internet Protocol (VoIP) Service providers to assess and remit surcharge revenues to the CPUC to fund the public purpose programs.
8. The Commission may revoke or suspend the operating authority of telephone carriers that are 90 days or more in arrears on reporting and remitting surcharges, per D. 93-05-010.
9. D. 10-09-017 requires registration license holders to submit a continuous performance bond within 90 days after the effective of the Decision for existing registration license holders and within 90 days from the issuance of a registration license for new registration holders.
10. The Commission in D.10-09-017 directed the Communications Division (CD) to pursue license revocations of telephone carriers that fail to submit the required performance bond within 120 days from the issuance of the Decision for existing registration holders and 120 days from the issuance of registration licenses for new applicants.
11. D.13-05-035 requires all applicants seeking or holding a Certificate of Public Convenience and Necessity (CPCN) and wireless carriers seeking or holding a Wireless Identification Registration (WIR) to post a performance bond.
12. The telephone carriers listed in Appendices A and B have not complied with at least two of these requirements: a) report and remit User Fees; b) report and remit surcharge revenues; and c) submit a performance bond.
13. Under PU 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, with all fees in default due and payable immediately.

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14. All carriers decertified by this Resolution that have customers in California shall notify their customers within five (5) days from the effective date of this Resolution that their operating authority has been revoked and that they will no longer be providing service.
15. CD undertook proper and reasonable measures to locate, inform and remind the telephone carriers listed in Appendices A and B of the User Fee, surcharge and performance bond requirements.
16. Revocation of the operating authority of the 26 telephone carriers listed in Appendices A and B shall become effective thirty (30) days after this Resolution is adopted, and their Telephone Utility Identification Numbers shall be concurrently cancelled for failure to comply with PU Code § 405, D. 96-10-066 and D. 10-07-017.
17. Telephone carriers with valid operating authorities should cease from conducting business with the 26 carriers whose licenses have been revoked.
18. Any telephone carrier whose operating license has been revoked may reapply for a new operating authority subject to: a) compliance with the Commission's licensing application rules (e.g. performance bond requirement), and b) reporting all gross intrastate revenue for past periods out of compliance, and c) pay all applicable fees and surcharges including a 25% fine on applicable fees and surcharges for past periods out of compliance.
19. The Commission remits fines to the State Treasury.
20. The Commission e-mailed a Notice of Availability on August 18, 2015 to all telephone carriers informing these parties that the draft of this Resolution is available at the Commission's website <http://www.cpuc.ca.gov/> and is available for public comments. CD informed these parties of the subsequent availability of the conformed Resolution, when adopted by the Commission, at the same Commission's website.
21. Names of the decertified carriers were posted in the CPUC's Daily Calendar for 30 days.

THEREFORE, IT IS ORDERED that:

1. To the extent that any of the 26 decertified carriers listed in Appendices A and B to this Resolution have customers in California, we direct those carriers to notify their customers within five (5) days from the effective date of this Resolution that their operating authority has been revoked and that they will no longer be providing service.
2. The operating authorities issued to the 26 telephone carriers listed in Appendices A and B to this Resolution are revoked, effective thirty (30) days after this Resolution is adopted.
3. The Telephone Utility Identification Numbers of the 26 telephone carriers listed in Appendices A and B to this Resolution are cancelled, effective thirty (30) days after this Resolution is adopted.
4. Telephone carriers with valid operating authorities are hereby noticed that they should cease from conducting any business with the 26 telephone carriers listed in Appendices A and B to this Resolution, beyond thirty (30) days from the effective date of this Resolution.
5. If any of the 26 telephone carriers listed in Appendices A and B to this Resolution wishes to reinstate operations in California, the carrier must reapply for a new operating authority with the Commission and must: a) comply with the Commission's licensing application rules (e.g. performance bond requirement); b) report all gross intrastate revenue for all past periods out of compliance; and c) pay all applicable fees and surcharges including a 25% fine on applicable fees and surcharges for all past periods out of compliance.

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This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on November 5, 2015. The following Commissioners approved it:

/s/ Timothy J. Sullivan

TIMOTHY J. SULLIVAN
Executive Director

MICHAEL PICKER

President

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

CARLA J. PETERMAN

LIANE M. RANDOLPH

Commissioners

Appendices

Appendix A (in U-number order)
List of Carriers to be Revoked

#	UTILITY TYPE	UTILITY NAME	U-number	Performance Bond	Surcharges	User Fees
1	RTU	Velocita Wireless	U-2159-C		X	X
2	IEC	Roudebush Communications	U-5300-C	X	X	X
3	CLR, IEC	Covista, Inc.	U-5425-C	X	X	X
4	IEC	LDC Telecommunications Inc.	U-5498-C	X	X	X
5	CLC, IEC	Tcast Communications, Inc.	U-5633-C	X	X	X
6	IEC	Dial Long Distance, Inc.	U-5735-C	X	X	X
7	CLR, IER	Ernest Communications, Inc	U-6077-C	X	X	X
8	CLC, CLR, IER	Navigator Telecommunications, LLC	U-6167-C	X	X	X
9	IER	Go Solo Technologies, Inc.	U-6435-C		X	X
10	IER	Advanced Tel, Inc.	U-6616-C		X	X
11	IER	Digizip.Com, Inc.	U-6652-C		X	X
12	CLC, CLR, IER	Think 12 Corporation	U-6784-C	X	X	X
13	CLC, IEC	CBC Broadband Holdings, LLC	U-6944-C	X	X	X
14	CLR, IEC	BLC Management LLC	U-7022-C	X	X	X
15	CLR, IER	Pelzer Communications Corporation	U-7024-C	X	X	X
16	IER	Oak Grove Holdings Corporation	U-7058-C		X	X
17	IER	Ibasis Retail, Inc.	U-7063-C		X	X
18	IER	Excite Telecom	U-7071-C	X	X	X
19	CLC, CLR, IEC	Public Wireless, Inc.	U-7146-C	X	X	X
20	CLC, CLR	CALPOP.COM, INC.	U-7158-C	X	X	X
21	CLC, CLR	Net Talk.com, Inc.	U-7205-C	X	X	X
22	CLR	DigiJack Corporation	U-7224-C		X	X
23	IER	Iny Communications Inc	U-7225-C	X	X	X
24	IEC	Telecircuit Network Corporation	U-7244-C	X		X
25	IER	RiseTel, LLC	U-7250-C	X	X	X
26	CLR, IER	Synergy DAS, LLC	U-7254-C		X	X

End of Appendix A

Appendix B (in alphabetical order)
List of Carriers to be Revoked

#	UTILITY TYPE	UTILITY NAME	U-number	Performance Bond	Surcharges	User Fees
1	IER	Advanced Tel, Inc.	U-6616-C		X	X
2	CLR, IEC	BLC Management LLC	U-7022-C	X	X	X
3	CLC, CLR	CALPOP.COM, INC.	U-7158-C	X	X	X
4	CLC, IEC	CBC Broadband Holdings, LLC	U-6944-C	X	X	X
5	CLR, IEC	Covista, Inc.	U-5425-C	X	X	X
6	IEC	Dial Long Distance, Inc.	U-5735-C	X	X	X
7	CLR	DigiJack Corporation	U-7224-C		X	X
8	IER	Digizip.Com, Inc.	U-6652-C		X	X
9	CLR, IER	Ernest Communications, Inc	U-6077-C	X	X	X
10	IER	Excite Telecom	U-7071-C	X	X	X
11	IER	Go Solo Technologies, Inc.	U-6435-C		X	X
12	IER	Ibasis Retail, Inc.	U-7063-C		X	X
13	IER	Iny Communications Inc	U-7225-C	X	X	X
14	IEC	LDC Telecommunications Inc.	U-5498-C	X	X	X
15	CLC, CLR, IER	Navigator Telecommunications, LLC	U-6167-C	X	X	X
16	CLC, CLR	Net Talk.com, Inc.	U-7205-C	X	X	X
17	IER	Oak Grove Holdings Corporation	U-7058-C		X	X
18	CLR, IER	Pelzer Communications Corporation	U-7024-C	X	X	X
19	CLC, CLR, IEC	Public Wireless, Inc.	U-7146-C	X	X	X
20	IER	RiseTel, LLC	U-7250-C	X	X	X
21	IEC	Roudebush Communications	U-5300-C	X	X	X
22	CLR, IER	Synergy DAS, LLC	U-7254-C		X	X
23	CLC, IEC	Tcast Communications, Inc.	U-5633-C	X	X	X
24	IEC	Telecircuit Network Corporation	U-7244-C	X		X
25	CLC, CLR, IER	Think 12 Corporation	U-6784-C	X	X	X
26	RTU	Velocita Wireless	U-2159-C		X	X

End of Appendix B