

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Carrier Oversight & Programs Branch**

**RESOLUTION T-17597
March 22, 2018**

RESOLUTION

Resolution T-17597. Imposes Fines and Subsequently Revokes the Operating Authority of Telephone Corporations for their Failure to Comply with User Fee, Public Purpose Program Surcharge and Performance Bond Requirements

SUMMARY

This Resolution imposes fines on 42 wireline telephone corporations in the amount of \$1,000 per violation for failing to comply with one or more of the following California Public Utilities Commission requirements through the November 2017 billing period: a) reporting and remittance of California Public Utilities Reimbursement Account Fee in accordance with Public Utilities Code § 401 through 405; b) reporting and remittance of public purpose program surcharges in compliance with Public Utilities Code § 275 through 278 and General Order 153 paragraph 11; and c) submission of a performance bond as ordered under Decision 10-09-017. The total fine amount imposed on 42 non-compliant carriers is \$53,000.

If a wireline telephone corporation's fine and fees are not paid and all requirements are not met within 30 days from the effective date of this Resolution, the said corporation's Certificates of Public Convenience and Necessity and/or registration license will be revoked and the carrier will no longer be authorized to operate in California. A list of these wireline telephone corporations is included in Appendix A.

BACKGROUND

Wireline telephone corporations holding a Certificates of Public Convenience and Necessity (CPCN) and/or registration license, must comply with all federal and state statutes, rules, and regulations¹. These requirements include, but are not limited to,

¹ See D. 13-05-035, Exhibit B, Sworn Affidavit for Certificate of Public Convenience and Necessity applicant.

timely reporting and remittance of California Public Utilities Reimbursement Account Fee (User Fee) and California Public Purpose Program surcharges (surcharges), and posting of a performance bond with the California Public Utilities Commission (CPUC or the Commission) designated as the obligee.

Utility types with wireline operating authority include those with a CPCN such as:

- **Competitive Local Carrier (CLC)** – A wireline telephone company that competes with an already-established local telephone company by providing its own network and switching.
- **Local Exchange Carrier (LEC)** – A wireline telephone company that provides local telecommunications services under regulation within a specified service area.

Utility types with wireline operating authority that may also be granted through the registration license process are:

- **Interexchange Carrier (IEC)** – A wireline telephone company that provides interstate (long distance) communications services within the United States (U.S.)
- **Interexchange Reseller (IER)** – A company that provides wireline interstate (long distance) communications services within the U.S. under its own name, but uses the networks of other service providers.
- **Competitive Local Reseller (CLR)** – A provider of local landline telephone service that does not own transmission facilities but leases at wholesale the landline facilities of another landline telephone company and resells the services to the public under its own name.

A. Utility Reimbursement Account Fee

Public Utilities (PU) Code § 401 through 405 and § 431 through 435 require telephone corporations to report their 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 0.33%.² Revenues that are subject to the User Fee include all intrastate customer revenues from

² Resolution M-4832. User fee rate effective January 1, 2018.

telecommunications services minus uncollectible revenue. The following telecommunications services revenues are exempt from the User Fee: 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 revenues in excess of \$750,000 to file quarterly. D.10-09-017 and D. 13-05-035 established a minimum of \$100 in User Fees that carriers must remit even if their intrastate revenue is zero.³ If a carrier is in default of the reporting or payment of the User Fee for more than 30 days, the CPUC may suspend or revoke its operating authority under PU Code § 405.

B. Public Purpose Program Surcharges

Telephone corporations are required to collect and remit surcharges to the Commission pursuant to PU Code § 270, 275-281, 285, 739.3, and 879, to fund universal service programs that the Commission administers. In D. 84-05-053, D. 94-09-065, and D. 96-10-066, the Commission established surcharge funding mechanisms to facilitate these programs. The mechanisms require telephone corporations including Voice over Internet Protocol service providers to assess a surcharge on revenues collected from end users for intrastate telecommunications services subject to surcharge. Telephone corporations 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.⁴

C. Performance Bond

In D. 10-09-017, the Commission required both current and new registration license holders⁵ to obtain a continuous performance bond in an amount equal to or greater than 10% of their intrastate revenues⁶ or \$25,000, whichever is greater. The performance bond must be issued by a corporate surety company that is authorized to transact

³ Per D. 10-09-017, "...registrants must pay an annual user fee based on the Commission-established rate in effect at that time ... or \$100, whichever is greater."

⁴ D. 93-05-010.

⁵ 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. 97-06-017 that does not hold interexchange authority pursuant to PU Code § 1001.

⁶ Intrastate revenues reported on the Commission's User Fees Statement during the preceding calendar year.

surety business in California, and the Commission must be listed as the obligee on the bond. In Ordering Paragraph (O.P.) 26 of D. 10-09-017, the Commission authorized the Communications Division (CD) to prepare a resolution revoking a 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 continued to require all applicants seeking or holding a CPCN 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 registrants at \$25,000 and exempted some carriers from this requirement.⁷

D. Penalties Under PU Code § 2107 and 2108

PU Code § 2107 provides for the Commission to impose penalties on carriers who do not comply with its requirements. The fine amount is determined under this section as follows:

Any public utility that violates or fails to comply with any provision of the Constitution of this state or of this part, or that fails or neglects to comply with any part or provision of any order, decision, decree, rule, direction, demand, or requirement of the commission, in a case in which a penalty has not been otherwise provided, is subject to a penalty of not less than five hundred dollars (\$500), nor more than fifty thousand dollars (\$50,000), for each offense.

For purposes of this resolution, the Commission determines an instance to be the failure of one carrier to meet a requirement from the date of issuance of its operating authority until present. An instance is determined under PU Code § 2108, which states:

Every violation of the provisions of this part or of any part of any order, decision, decree, rule, direction, demand, or requirement of the commission, by any corporation or person is a separate and distinct offense, and in case of a

⁷ D. 13-05-035, OP 5 states, "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."

continuing violation each day's continuance thereof shall be a separate and distinct offense.

All wireline carriers listed in this Resolution have failed to comply with one or more of the Commission's regulatory requirements, since being granted operating authority, and are therefore fined \$1,000 for each violation, in accordance with PU Codes § 2107 and 2108.

DISCUSSION

This resolution imposes fines on 42 wireline carriers that are in default of at least one of the following requirements through the November 2017 billing period:

- Reporting and remittance of User Fees;
- Reporting and remittance of surcharges; and
- Submission of a performance bond.

The CPCN and/or registration license of carriers who fail to meet all regulatory requirements to report and remit the User Fee and surcharges and file a copy of a performance bond issued to the Commission and pay the fine imposed by this resolution, by the 30th day of its effective date, will have their operating authority rescinded.

Appendix A of this Resolution identifies each non-compliant carrier by utility type and utility ID number. Please note that some of the listed carriers are classified by more than one utility type and possess both a CPCN and a registration license.

A carrier is in default of one or more of the above-listed requirements if an "x" appears in any column of the respective list. For each regulatory requirement not met, a \$1,000 fine is levied on the carrier.

Reporting and remittance of User Fees was historically a manual process of mailing the report and payment to the Commission's fiscal office. This changed in January 2016, when the Commission required User Fee to be reported through the Telecommunications and User Fees Filing System (TUFFS). Through the November 2017 billing period, 26 carriers have never reported nor remitted user fees to the Commission since the date of issuance of their operating authority.

Since 2010, surcharges are required to be reported and remitted through the TUFFS database and First Data⁸ bank portal, respectively. From the date of issuance of their operating authority until the November 2017 billing period, 4 carriers have never reported or remitted surcharges to the Commission.

Proof of a carrier's performance bond is to be filed via an advice letter with the Communication's Director within 30 days of the issuance of a carrier's operating authority. As of mailing of this Resolution, 23 carriers are non-compliant.

A. Notifications of User Fee, Surcharges and Bond Requirements

The carriers listed in this Resolution were provided multiple notices regarding User Fee, surcharge, and performance bond requirements. The Commission undertook the following steps to notify carriers:

User Fee

The Fiscal Office notifies and reminds carriers of the Commission revenue and User Fee reporting requirement by sending 30th, 60th and 90th day past due notices. Through this process, the Fiscal Office has notified all wireline carriers in this Resolution of their failure to report and remit the User Fee.

Performance Bond

CD sends a letter annually to remind all carriers of the Commission performance bond requirement. CD also monitors carriers to ensure that they have satisfied the requirement. All of the non-compliant carriers have received this notice.

User Fee, Surcharges and Performance Bond

In November 2017 and December 2017, CD staff identified and contacted carriers that had never reported nor remitted User Fees or surcharge revenues and were delinquent in submitting bonds. Upon being contacted, a number of carriers began to submit reports and payments accordingly. CD staff then continued to review TUFFS to identify carriers for continual compliance, and sent corresponding notice letters via U.S mail and email to the carriers that failed to comply with the surcharge requirement. CD staff also sent a follow up notice to these carriers.

⁸ Prior to 2016, payments were made to Citibank.

The first notice to non-compliant carriers occurred during November 2017. Email notices were sent on November 9-10, 2017. For carriers who could not be reached via email, notices were sent via traditional mail on November 14, 2017.

The second round of mailings occurred from December 8, 2017 to December 13, 2017. The second notice was sent via email to carriers who have failed to respond or take action on the first notice. Those carriers with undeliverable emails were again sent notice via certified mail.

The Commission found a number of carriers to have not updated their contact information. In the effort to notify the non-compliant carriers of the requirements, the Commission exhausted all methods of communication including emailing, calling, searching through carrier websites, and sending notices via certified mail.

B. Penalties

All carriers listed in this Resolution have failed to comply with one or more of the Commission's regulatory requirements despite receiving repeated notices from CD and the Fiscal Office. We, therefore, find it reasonable to fine each of these carriers in the amount of \$1,000 for each of its violations.

We direct carriers, as shown in Appendix A, to pay a fine in the amount of \$1,000 per violation within thirty (30) days from the effective date of this Resolution. If the carrier fails to pay the fine within 30 days, the carrier's CPCN and/or registration license will be revoked and the carrier will no longer be authorized to operate in California.

Fines must be paid, by a check or money order, payable to the California Public Utilities Commission, and mailed or delivered to the California Public Utilities Commission's Fiscal Office at 505 Van Ness Avenue, Room 3000, San Francisco, CA 94102. The telephone corporation should write on the face of the check or money order "For deposit to the State of California General Fund, per Resolution T-17597."

We also hereby direct all telephone corporations operating in California, to notify CD if they conduct business with any decertified carriers, listed with violations in Appendix A of this Resolution.

C. Suspension of Participation in Public Purpose Programs (PPP)

The wireline carriers listed in this Resolution shall not be eligible to receive subsidy or draw from the six PPP funds until they pay the fines and remit all overdue/accrued

surcharge revenues and User Fees. Since surcharge revenues fund the Commission's universal service programs, no carrier in violation of the Commission's regulatory requirements should benefit from these programs. If the fines are not paid within 30 days from the effective date of this Resolution, the provider's registration will be revoked. Upon revocation of the provider's registration, it will no longer be able to access the TUFFS to report and remit surcharges as required nor participate in any of the PPPs.

SAFETY IMPACT

The utility reimbursement account fees and performance bond facilitate the Commission's fiscal and civil responsibility to protect California consumers. The funding of public purpose programs further ensures equal access to communication services in California thereby promoting public safety.

CONCLUSION

We find that CD employed the necessary measures to locate and inform the carriers listed in Appendix A of this Resolution of their respective obligation to comply with the stated User Fee, surcharges and performance bond requirements. CD provided ample time and opportunity for these carriers to achieve compliance. Thus, we find it reasonable to apply sanctions against each of the wireline providers listed and therefore impose a fine of \$1,000 per violation to be paid within 30 days from the effective date of this Resolution. To achieve full compliance, carriers must also report any intrastate revenue, and remit the resulting User Fees and surcharges including penalties and interest within 30 days of the effective date of this Resolution.

If a carrier continues to be in default beyond 30 days from the effective date of this Resolution, the carrier's CPCN and/or registration license will be revoked. To the extent any of these carriers have customers in California, we direct them to notify their customers within five (5) days from the effective date of their revocation that their operating authority in California has been revoked and that they are no longer authorized to provide service.

We also hereby direct telephone corporations to notify CD if they provide services to any of the carriers listed in Appendix A and to cease from conducting business with said carriers whose license have been revoked by this Resolution.

After the 30 day deadline, to reinstate operating authority, a revoked carrier will be required to apply for a new CPCN and/or registration license and must, at a minimum,:

- a. Comply with licensing application rules;
- b. Pay all accrued User Fees, surcharges, and associated fines and penalties, and;
- c. Post a performance bond with the Commission designated as the obligee.

COMMENTS ON THE DRAFT RESOLUTION

In compliance with PU Code § 311 (g), a Notice of Availability was e-mailed on February 20, 2018 to all telephone corporations 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 that the subsequent conformed Resolution, when adopted by the Commission, will be available at the same Commission's website.

Names, utility ID numbers and operating authorities of the carriers listed here were posted in the CPUC's Daily Calendar for 30 days. Interested parties were invited to contact the CD with questions or to submit written comments on this Resolution.

The Communications Division received no formal comments during the comment period. However, a group of carriers with wireless designations was removed from the non-compliant list shown in Appendix A. This reduced the total number of non-compliant carriers from 47 to 42 and reduced the total original fines from \$58,000 to \$53,000. In addition, a number of carriers submitted reports and payments to complete their user fee and performance bond requirements. However, these carriers continue to be subject to the obligation to remit fines. These carriers have been identified in Appendix A.

Lastly, Race Telecommunications, Inc. (U-7060-C) submitted reports and payments to complete their performance bond requirement and pay the fine. Race Telecommunications, Inc. is no longer subject to revocation.

FINDINGS AND CONCLUSIONS

1. All 42 wireline telephone corporations (carriers) listed in Appendix A to this Resolution have received a Certificates of Public Convenience and Necessity (CPCN) or registration license from the California Public Utilities Commission (CPUC or the Commission).
2. Public Utilities (PU) Code § 401 through 405 require carriers to report their California intrastate revenues and remit corresponding Utilities Reimbursement

Account Fees (User Fee). Carriers that are in default of reporting and remitting User Fees for a period of 30 days or more are subject to penalties including suspension or revocation of their operating authority in California.

3. Decision (D). 10-09-017 and D. 13-05-035 set a minimum annual User Fee amount of \$100 for all carriers holding a CPCN and/or registration license, even if intrastate revenues are zero.
4. PU Code § 270, 275-281, 739.3 and 879 authorize the Commission to collect surcharges to fund universal service programs. In D. 84-05-053, D. 94-09-065, and D. 09-10-066, a surcharge funding mechanism was established for the Commission to fund the public purpose programs. The decisions required telephone corporations to assess, collect, report, and remit surcharges from end-users intrastate telecommunications service revenues.
5. D. 93-05-010 allows the Commission to revoke or suspend the operating authority of carriers that are 90 days or more in arrears of reporting and remitting surcharges.
6. D. 10-09-017 and D. 13-05-035 required CPCN and registration license holders to submit a continuous performance bond within 90 days of the effective date of the Decision for existing CPCN and registration license holders and within 90 days from the issuance of a registration license for new applicants. The decisions also direct the Communications Division (CD) to pursue license revocations of telephone corporations with a CPCN and/or registration license 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.
7. The telephone corporations listed in Appendix A have not complied with at least one of these requirements: a) report and remit User Fees; b) report and remit surcharges; and c) submit a performance bond.
8. Some carriers listed in Appendix A have now complied with the requirements stated above. However, these carriers remain subject to fines and subsequent revocation if they do not remit said fines.
9. The CPUC undertook proper and reasonable measures to locate and notify the telephone corporations listed in Appendix A of the User Fee, surcharge and performance bond requirements.

10. We find it reasonable to impose a \$1,000 fine per violation, upon each of the 42 wireline telephone corporations listed in Appendix A.
11. Revocation of the operating authority of the telephone corporations who have failed to remedy the violations listed and pay the fine shall become effective thirty (30) days after this Resolution is adopted.
12. Within five (5) days from the effective date of the revocation, all carriers decertified for failure to pay the fine imposed by this Resolution in the given time frame, shall notify their customers in California that their operating authority has been revoked and that they are no longer authorized to provide service.
13. Telephone corporations should notify CD if they conduct business with any of the carriers listed in Appendix A and cease from conducting business with carriers whose licenses have been revoked by this Resolution.
14. Any telephone carrier whose operating authority has been revoked may reapply for a new operating authority subject to, at a minimum: a) compliance with the Commission's licensing application rules; b) payment of all accrued User Fees, surcharges, and associated fines and penalties, and; c) posting a performance bond with the Commission designated as the obligee.
15. The Commission remits fines to the State Treasury.
16. The Commission e-mailed a Notice of Availability on February 20, 2018 to all telephone corporations 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.
17. The names, utility ID numbers and operating authorities of the 42 carriers were posted in the CPUC's Daily Calendar for 30 days.

THEREFORE, IT IS ORDERED that:

1. The Commission imposes a fine of \$1,000 per violation against each of the 42 wireline telephone corporations listed in Appendix A for failing to comply with the California Public Utilities Commission's User Fee, public purpose program surcharge, and performance bond requirements. If the violations are not remedied and the fines are not paid within 30 calendar days from the effective date of the

Resolution, the wireline telephone corporation's Certificates of Public Convenience and Necessity (CPCN) and/or registration license will be revoked.

2. Fines shall be paid by a 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, Room 3000, San Francisco, CA 94102. The wireline telephone corporation's representative shall write on the face of the check or money order "For deposit to the State of California General Fund, per Resolution T-17597."
3. If any of the 42 wireline telephone corporations listed in Appendix A participates or draws from the California Public Utilities Commission's public purpose programs, the wireline telephone corporation shall no longer be eligible to participate or receive funds from any of these programs unless the carrier's respective violations have been remedied within 30 days.
4. All carriers decertified for failure to pay the fine imposed by this Resolution in the given time frame, are directed to notify their customers in California, that their operating authority has been revoked and that they are no longer authorized to provide service, within five (5) days from the effective date of the revocation.
5. Telephone corporations should notify the Communications Division (CD) if they conduct business with any of the carriers listed in Appendix A of this Resolution. Telephone corporations should also cease conducting business with carriers who have been decertified by this Resolution.
6. If any of the 42 telephone corporations listed in this Resolution, after its operating authority is revoked for failure to comply with Commission requirements and pay the fine within 30 days, wishes to reinstate operations in California, the carrier must reapply for a new operating authority with the Commission and, at a minimum: a) comply with the Commission's licensing application rules; b) pay all accrued User Fees, surcharges, and associated fines and penalties, and; c) post a performance bond with the Commission designated as the obligee.

This Resolution is effective today.

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

ALICE STEBBINS
Executive Director

APPENDIX

Appendix A
Non-Compliant Wireline Carriers

Utility ID Number	Carrier Name	Utility Type	User Fee	Surcharges	Performance Bond	Fine
U-5166-C	Fiber Data Systems	IEC, CLC			x	\$1,000
U-5208-C	Coast International, Inc.	IEC	x		x	\$2,000
U-5266-C	Pac-West Telecomm, Inc.	IEC, CLC	x			\$1,000
U-5268-C	Norstan Network Services, Inc.	IEC			x	\$1,000
U-5364-C	BUSINESS DISCOUNT PLAN INC.	IEC, CLR, IER	x			\$1,000
U-5499-C	Tremcom International	IEC			x	\$1,000
U-5826-C	Net One International, Inc	IEC			x	\$1,000
U-6039-C	Clear World Communications Corp.	IEC	x			\$1,000
U-6225-C	Quick-Tel, Inc	IER	x		x	\$2,000
U-6276-C	Unity Telecom, LLC (DPI Teleconnect, LLC)	IEC, CLR, CLC	x		x	\$2,000
U-6455-C	United States Telesis, Inc.	CLR, IER, CLC	x			\$1,000
U-6458-C	Digital Net Phone, LLC	IEC, CLC			x	\$1,000
U-6701-C	CYPRESS COMMS OPERATING CO., INC.	IEC, CLC	x			\$1,000
U-6704-C	Calltower, Inc.	IEC, CLC			x	\$1,000
U-6740-C	TELEDATA SOLUTIONS, INC	CLR, IER, CLC	x		x	\$2,000
U-6763-C	Greenfield Communications, Inc.	CLR, IER, CLC	x			\$1,000
U-6815-C	Independent Telecommunications Systems,	IEC	x			\$1,000
U-6823-C	LCR Services, Inc.	IER	x			\$1,000
U-6940-C	Access2Go, Inc.	CLR, IER			x	\$1,000
U-6960-C	Mission Telecom, Inc.	IER	x			\$1,000
U-7003-C	Ttusa Acquisition, Inc.	IER	x			\$1,000
U-7049-C	Vidafon, Inc.	IER	x			\$1,000
U-7100-C	Ekit.Com Inc.	IEC	x			\$1,000
U-7107-C	Inetworks Group, Inc.	CLR, IER	x		x	\$2,000
U-7141-C	Empire Unified Communications LLC	CLR, IER, CLC	x		x	\$2,000
U-7143-C	Internet Business Services, Inc.	IER	x			\$1,000
U-7170-C	United Telecom, Inc.	IER	x			\$1,000
U-7187-C	Splice Communications, Inc.	IEC	x			\$1,000
U-7202-C	321 Communications, Inc.	CLR, CLC			x	\$1,000
U-7228-C	TQAvenger Telecom, LLC	IER, CLC	x			\$1,000
U-7248-C	Metro Star Networks, Inc.	IEC	x	x	x	\$3,000
U-7328-C	USNIX Corporation	CLR, IER	x	x		\$2,000
* U-5456-C	Communications Brokers & Consultants	IEC			x	\$1,000
* U-6469-C	Comtech 21, LLC	IER, CLC			x	\$1,000
* U-6562-C	Aries Network, Inc.	IEC, CLR			x	\$1,000
* U-6961-C	IBFA Acquisition Company, LLC	IEC, CLR			x	\$1,000
* U-7151-C	Entelegent Solutions, Inc.	CLR, IER, CLC			x	\$1,000
* U-7212-C	Nobelbiz VOIP Services, Inc.	CLR, CLC			x	\$1,000
* U-7308-C	Global Calling Corporation	IER			x	\$1,000
* U-7318-C	Atherton Fiber, LLC	IEC, CLR, CLC	x	x		\$2,000
** U-7298-C	5 Bars, LLC	IEC, CLR, IER, CLC	x	x		\$2,000
*** U-7060-C	Race Telecommunications, Inc.	CLR, IER, CLC			x	\$1,000
COUNT		42	26	4	23	\$53,000

* Carrier has submitted documentation to complete all requirements but has not paid fines due.

** Carrier has corrected the User Fee requirement but has not completed the surcharge requirement nor paid the fine.

*** Carrier has submitted documentation to complete all requirements and has paid the fine. Therefore, carrier is no longer subject to revocation.