

Decision 18-06-014 June 21, 2018

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Veritas Prepaid Phone Co.,
LLC for Registration as an Interexchange
Telephone Corporation Pursuant to Public
Utilities Code Section 1013.

Application 16-10-011

**DECISION GRANTING MOTION TO WITHDRAW APPLICATION AND
DISMISSING THIS PROCEEDING WITH CONDITIONS**

Summary

This decision grants the motion filed by Veritas Prepaid Phone Co., LLC to withdraw its application for registration as an interexchange carrier telephone corporation pursuant to Public Utilities Code Section 1013 and dismisses the proceeding with conditions. Applicant and/or any of its current officers, directors, or owners of more than ten percent of its outstanding shares shall reference this decision, the application, and the protests by the California Public Utilities Commission's Consumer Protection and Enforcement Division and by Plaintiffs in *Ibanez et al. v. Touch-Tel U.S.A.*, in any future application that it, together or separately, shall make to the Commission for authorization to provide telecommunications services in California.

Application 16-10-011 is closed.

1. Background

On October 14, 2016, Veritas Prepaid Phone Co., LLC (Veritas) filed an application for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013.

On November 21, 2016, pursuant to Rule 2.6 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure (Rules),¹ the Commission's Consumer and Enforcement Division (CPED) protested Veritas' application. CPED asserted that Veritas violated Rule 1.1 because its certifications in Sections 2, 8, and 9 of its application were false. CPED asserted that Veritas failed to disclose an affiliation with Touch-Tel USA, LLC (Touch-Tel).² Related to this omission, CPED alleged that Veritas failed to disclose several enforcement actions, revocations, and settlements involving its affiliate, Touch-Tel, as follows:³

- Revocation of Touch-Tel's operating authority for failure to remit fees and/or submit annual reports in multiple jurisdictions, including the Florida Public Service Commission in October 2007, the Public Utility Commission of Texas in May 2011, the Illinois Commerce Commission in July 2011, and this Commission in November 2009.

¹ All references to Rules are to the Commission's Rules of Practice and Procedure, which are available on the Commission's website.

² Protest of the CPED to Application of Veritas Prepaid Phone Co., LLC (CPED Protest), at 4.

³ CPED Protest, at 4-10.

- Federal Communications Commission (FCC) enforcement actions against Touch-Tel in August 2011, resulting in a \$20,000 forfeiture order, and in October 2016, resulting in a \$5 million forfeiture order for making “apparently deceptive representations” about its prepaid phone cards and failing to disclose “material information about its rates, charges, and practices.”
- Settlement agreement between Touch-Tel and the Florida Attorney General’s Office in July 2008 that “required Touch-Tel to cease deceptive advertising, provide one hundred percent of the minutes advertised, and submit to three (3) years of auditing.”
- September 2013 class action settlement in federal district court involving allegations that Touch-Tel sold prepaid calling cards “without fully disclosing the applicable rates, fees, and charges as required by California law...”
- Pending class action in Los Angeles Superior Court in October 2015 involving allegations of “failing to disclose the price, rate or unit value of card clearly and conspicuously...”

CPED further alleged that Veritas and/or Touch-Tel have been operating in California without Commission approval, that the Commission’s Safety Enforcement Division (SED) previously notified Touch-Tel to “cease and desist all offerings of telecommunications services in California,” and that CPED “intends [to] further investigate Veritas’ and Touch-Tel’s apparent operations in California without Commission authorization in violation of § 885, 1001, and 1013.”⁴

On November 21, 2016, pursuant to Rule 2.6, the certified plaintiff class in *Ibanez et al. v. Touch-Tel U.S.A. LLC et al.*, Los Angeles Superior Court Case

⁴ CPED Protest, at 12.

No. BC488697 (*Ibanez* Plaintiffs) filed a protest to Veritas' application. As with CPED's protest, Plaintiffs asserted that Veritas violated Rule 1.1 because it failed to disclose its affiliate Touch-Tel, a September 2013 settlement agreement in *Galvez et al. v. Touch-Tel U.S.A.*, Case No. 11-6592 (9th Cir. 2013), and other FCC enforcement actions.

1.1. Veritas' Motion to Withdraw the Application

On December 6, 2016, in lieu of a reply to the protests by CPED and *Ibanez* Plaintiffs, Veritas moved to withdraw its application. Veritas asserted that its application was filed without the assistance of counsel and that it "misapprehended that Touch-Tel nevertheless likely should be deemed an affiliate for purposes of the Application..."⁵ Veritas stated it "regrets this error" and that its failure to identify the affiliate "was not intended to mislead the Commission..." Veritas stated that "[i]n furtherance of updating the record, and conserving the Commission's resources," it requested its application be withdrawn. Veritas stated that it did not object to the Commission issuing a withdrawal with conditions that the Applicant reference this decision, the application, and the protests in any future applications. Veritas did not otherwise address the allegations raised by CPED and *Ibanez* Plaintiffs.

On December 28, 2016, CPED opposed Veritas' motion to withdraw. CPED asserted that the motion should be denied because the Commission must determine whether Veritas and Touch-Tel are operating without authority in California and the motion failed to provide a legal or factual basis for

⁵ Applicant's Motion to Withdraw the Application, at 2.

withdrawal.⁶ On December 20, 2016, *Ibanez* Plaintiffs also opposed the motion to withdraw, generally reiterating the allegations in their protest and providing further support for their allegations.⁷

1.2. Prehearing Conference

On February 13, 2017, the Commission held a Prehearing Conference (PHC) in this proceeding. During the PHC, CPED stated that it had initiated an investigation into Touch-Tel's operational activities prior to the filing of the application and had sent a cease-and-desist letter sent to Amanul Syed, owner of Veritas, in January 2016.⁸ CPED stated that it was continuing to investigate Veritas and Touch-Tel's operations but had not yet brought formal action before the Commission.⁹

On March 1, 2017, Applicant, CPED, and *Ibanez* Plaintiffs filed post-PHC statements. Applicant primarily contended that the Commission lacked jurisdiction over Veritas' services because the company offered "one-way, IP-based, international communication services" and "does not sell prepaid cards in California."¹⁰ In general, CPED and *Ibanez* Plaintiffs reiterated the allegations made in their prior responses and the PHC, as well as provided additional evidence in support of their allegations.¹¹

⁶ CPED's Response to the Motion to Withdraw, at 3, 5.

⁷ *Ibanez* Plaintiffs' Response to Motion to Withdraw.

⁸ PHC Transcript, February 13, 2017, at 24-27.

⁹ *Id.*

¹⁰ Veritas' Post-PHC Statement, at 2.

¹¹ CPED's Post-PHC Comments; *Ibanez* Plaintiffs' Post-PHC Comments.

2. Discussion

We grant Applicant's motion to withdraw its application. After careful consideration of the arguments presented in CPED and *Ibanez* Plaintiffs' protests and responses, the Commission does not find a compelling reason to continue to process Veritas' application given that Veritas no longer seeks operating authority. The Commission, however, takes the allegations raised by CPED and *Ibanez* Plaintiffs very seriously. Compliance with Rule 1.1 of the Commission's Rules is necessary to protect the integrity of the Commission's regulatory process. Accordingly, the Commission takes particular note of CPED's allegations relating to Veritas' compliance with Rule 1.1. Based on the circumstances of the application, we dismiss the application with the following conditions:

The Applicant and/or any of its current officers, directors, or owners of more than ten percent of its outstanding shares shall reference this decision, the application, and CPED and *Ibanez* Plaintiffs' protests in any future applications that they, together or separately, shall make to the Commission for authorization to provide telecommunications services in California.

In its post-PHC statement, Veritas asserted that the Commission lacked jurisdiction over certain of its operating services.¹² In granting Veritas' withdrawal of the application, the Commission does not make a determination as to Veritas' jurisdiction claim since the argument is now moot by this decision.

CPED asserted that it has been conducting an investigation into the operations of Touch-Tel and/or Veritas since at least January 2016. The Commission believes that the allegations raised by CPED and *Ibanez* Plaintiffs, if

¹² Veritas' Post-PHC Statement, at 6.

true, are not to be taken lightly. However, CPED should bring forward such allegations through its investigative process, as warranted, and not through the subject application.

Further, we advise Veritas that should Veritas, or any of its affiliates, offer telecommunications services in California without Commission authorization or fail to disclose information as required, the Commission will not hesitate to escalate to fines and other penalties, as warranted. The conditions imposed on the Applicant as a result of the withdrawal will ensure full disclosure and compliance in any future proceedings.

3. Categorization and Need for Hearing

In Resolution ALJ 176-3387, dated October 27, 2016, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. CPED and *Ibanez* Plaintiffs protested the application and Applicant requested that the application be withdrawn. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations.

4. Comments on Proposed Decision

The proposed decision of Administrative Law Judge (ALJ) Chiv in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed by CPED.

CPED's comments contain a number of inaccuracies based on the record. For example, CPED states that the proposed decision is incorrect in stating that CPED has initiated an investigation into Veritas and/or Touch-Tel and that CPED has not yet brought formal action against Veritas and/or Touch-Tel. CPED states that "[t]hese facts are not in evidence, and the proposed decision draws a

conclusion without underlying support.” The support for those statements came from CPED’s own statements made during the PHC (*see* citations in proposed decision). CPED’s comments also reassert allegations made in its previous submissions, all of which have been considered by the Commission in issuing its decision. No changes were made to the proposed decision in response to comments.

5. Assignment of Proceeding

Liane Randolph is the assigned Commissioner and Debbie Chiv is the assigned ALJ in this proceeding.

Findings of Fact

1. Veritas filed an application for registration as an interexchange carrier telephone corporation on October 14, 2016.
2. Notice of the application appeared on the Daily Calendar on October 21, 2016.
3. CPED and *Ibanez* Plaintiffs filed protests to Veritas’ application on November 21, 2016.
4. CPED and *Ibanez* Plaintiffs’ protests alleged that, Veritas failed to disclose an affiliate, Touch-Tel, as well as multiple enforcement actions, settlements, and revocations of operating authorities involving Touch-Tel.
5. In response to CPED and *Ibanez* Plaintiffs’ protests, Veritas filed a motion to withdraw its application on December 6, 2016.
6. A PHC was held on February 13, 2017.
7. Veritas no longer seeks registration as an interexchange carrier telephone corporation.

Conclusions of Law

1. Applicant’s Motion to Withdraw should be granted.

2. The application should be dismissed with conditions.
3. Applicant and/or any of its current officers, directors, or owners of more than 10 percent of its outstanding shares should be required to reference this decision, the application, and protests of CPED and *Ibanez* Plaintiffs in any future applications that they, together or separately, shall make to the Commission for authorization to provide telecommunications services in California.

O R D E R

IT IS ORDERED that:

1. Veritas Prepaid Phone Co., LLC's Motion to Withdraw the Application is granted with conditions.
2. Veritas Prepaid Phone Co., LLC and/or any of its current officers, directors, or owners of more than 10 percent of its outstanding shares must reference this decision, the application, and protests of the Commission's Consumer and Enforcement Division and *Ibanez* Plaintiffs in any future applications that they, together or separately, shall make to the Commission for authorization to provide telecommunications services in California.
3. Application 16-10-011 is closed.

This order is effective today.

Dated June 21, 2018, at San Francisco, California.

MICHAEL PICKER

President

CARLA J. PETERMAN

LIANE M. RANDOLPH

MARTHA GUZMAN ACEVES

CLIFFORD RECHTSCHAFFEN

Commissioners