

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Carrier Oversight & Programs Branch**

**RESOLUTION T-17723
January 14, 2021**

RESOLUTION

Resolution T-17723. Adopts the Advice Letter process for telephone corporations seeking to voluntarily surrender or relinquish operating authority; and delegates to Communications Division authority to approve these requests and to revoke the operating authority in a limited manner.

SUMMARY

This Resolution adopts the use of the Advice Letter process for a telephone corporation (hereafter known as a “carrier”) seeking to voluntarily surrender or relinquish its California operating authority approved by the California Public Utilities Commission (CPUC or Commission); and delegates to the Communications Division (CD) the authority to approve these requests and to revoke the operating authority consistent with the processing of matters appropriate for a Tier II Advice Letter (effective after staff approval),¹ without the need to issue a Commission Resolution.

A carrier with operating authority in California must submit a Tier II Advice Letter, and request approval to voluntarily surrender or relinquish that operating authority in California at least 30 days prior to the requested date that the carrier seeks to exit the market. Before filing this request, the carrier must satisfy the following requirements:

1. The request does not fall under the mass migration rules;²
2. The carrier meets the requirements associated with “Withdrawal of Service”³ including but not limited to issuance of Customer Notice requirements;⁴
3. The carrier does not have Carrier of Last Resort (COLR) status;

¹ General Order 96-B, Telecommunications Rule 7.2

² Mass Migration Rules: Decision (D.)10-07-024/D.06-10-021

³ Withdrawal of Service as defined in General Order (G.O.) 96-B Industry Rule 1.16

⁴ Customer Notice requirements is found in G.O. 96-B Industry Rule 3 and 5.3

4. The carrier does not participate in or owe monies to any of the Telecommunications Public Purpose Program (i.e., California Advanced Service Fund (CASF), Universal Lifeline Telephone Service (ULTS or California LifeLine), Deaf and Disabled Telecommunications Program (DDTP), California Teleconnect Fund (CTF), and California High Cost Fund (CHCF) A and B);
5. The carrier does not have any existing customers;
6. The carrier has not advertised or marketed its services to customers or have not participated in any CPUC public purpose program within the past six months prior to submitting their Advice Letter.
7. The carrier complied with all its regulatory obligations prior to the filing of the AL (e.g., annual reports, annual performance bond, reporting/payment of surcharges and user fees);
8. The carrier has no outstanding customer complaints filed with CPUC Consumer Affairs Branch (CAB), citations issued and/or enforcement actions by CPUC; or if one or more citations have been issued, penalties and/or fines have been paid and the citation(s) has been closed; and
9. The carrier has no pending or outstanding advice letter filings.

The Communications Division will perform a review and analysis of the request consistent with the General Order 96-B advice letter process. After identifying that there are no issues or concerns, and finding no potential impact on the public interest or safety, CD will approve the advice letter consistent with the processing of matters appropriate to a Tier II Advice Letter (effective after staff approval), at which point the carrier's operating authority shall be revoked. CD staff will issue a letter to the carrier granting the requested voluntary surrender or relinquishment of its operating authority in California.

A carrier that does not satisfy the requirements established in this resolution for filing a Tier II advice letter must submit either a Tier III advice letter or file a formal application for review of the request to voluntarily surrender or relinquish their operating authority.

BACKGROUND

The California Public Utilities Commission (CPUC or Commission) has broad regulatory authority and grants operating authority⁵ to telephone corporations. The CPUC grants operating authority to telephone corporations via a Certificate of Public Convenience and Necessity (CPCN), obtained through a formal application pursuant to Public Utilities (P.U.) Code § 1001, or via the streamlined registration process pursuant to P.U. Code § 1013.⁶ Commercial Mobile Radio Service (CMRS) providers (also known as wireless service providers) submit a Wireless Identification Registration (WIR) form and the Communications Division (CD) Director issues a WIR approval letter when CD staff has determined that the wireless service provider met the WIR requirements pursuant to Decision (D.) 94-10-031.

General Order (G.O.) 96-B was established to provide public utilities in California a process for submitting requests for Commission action outside of a formal proceeding. These requests are submitted via the advice letter process, G.O. 96-B § 3.1 of the General Rules defines an advice letter as: (1) an informal request by a utility for Commission approval, authorization, or other relief, including an informal request for approval to furnish service under rates, charges, terms, or conditions other than those contained in the utility's tariffs then in effect and (2) a compliance submittal by a load-serving entity pursuant to P.U. Code Section 380.

In the past, CD has addressed a carrier's request to voluntarily surrender or relinquish its operating authority in different ways. Sometimes CD has reviewed the request and put forth a resolution for Commission consideration; other times, CD has determined that the carrier is out of business or in bankruptcy, has no assets or customers, and administratively approved the carrier's request. In this resolution the Commission adopts a standard process for CD to address carrier requests to voluntarily surrender or relinquish operating authority, as set forth here.

DISCUSSION

The Communications Division considers the need to issue a resolution to approve a carrier's request to voluntarily surrender or relinquish its operating authority to be burdensome on the staff and the Commission itself. Carriers submit their requests to voluntarily surrender or relinquish their operating authority throughout the year

⁵ All telephone corporations are issued a unique 4-digit utility identification number (U-XXXX-C).

⁶ A final Decision by an ALJ is issued to a carrier that filed a request for operating authority via the CPCN process. In addition, CD prepares an Executive Director Decision for carrier requests via the streamlined registration process pursuant to P.U. Code § 1013.

depending on their independent business plans. The majority, if not all, of these carrier requests have asserted that they have no customers, no California revenues to report, and have ceased operations. In such situations, CD recommends that greater regulatory efficiency could be achieved if the Commission delegates to CD authority to approve a voluntary surrender or relinquishment request where certain criteria are met. CD also believes that granting staff this ministerial authority would have negligible effect upon both the utility involved, and customers. Therefore, it is appropriate to grant CD the authority to approve these requests consistent with processing matters appropriate to a Tier II Advice Letter (effective after staff approval) without issuing a Commission Resolution. CD staff will issue a letter to the carrier granting the requested voluntary surrender or relinquishment of its operating authority in California.

To ensure that the request is in the public interest and safety, and consistent with a grant of ministerial authority to staff, carriers must satisfy the following requirements to utilize the Tier II Advice Letter process. If a carrier does not satisfy these requirements, it should submit a Tier III advice letter or file a formal application with the Commission to ensure that the request is properly reviewed to determine if it is in the public interest and safety.

1. The request does not fall under the mass migration rules (D.10-07-024/D.06-10-021);
2. The carrier met the requirements associated with “Withdrawal of Service” (as defined in G.O. 96-B Industry Rule 1.16) including but not limited to issuance of a Customer Notice requirements (GO 96-B Industry Rule 3 and 5.3);
3. The carrier does not have Carrier of Last Resort (COLR) status;
4. The carrier does not actively participate in any of these CPUC public purpose programs or owe any monies to these programs:
 - a. California Advanced Services Fund (CASF)
 - b. California High Cost Fund A (CHCF-A)
 - c. California High Cost Fund B (CHCF-B)
 - d. California LifeLine
 - e. California Teleconnect Fund (CTF)
 - f. Deaf & Disabled Telecommunications Program (DDTP)
5. The carrier does not have any existing customers;⁷

⁷ A carrier with existing customers must perform the necessary steps to transfer its customers consistent with applicable Commission rules and requirements (e.g., Customer Notice requirements, Mass Migration and Transfer of Customer base).

6. The carrier has not advertised or marketed its services to customers or have not participated in any CPUC public purpose program within the past six months prior to submitting their Advice Letter.
7. The carrier complied with all its regulatory obligations prior to submitting the AL (e.g., annual reports, annual performance bond, reporting/payment of surcharges and users);
8. The carrier has no outstanding customer complaints filed with CPUC Consumer Affairs Branch (CAB), citations issued and/or enforcement actions by the CPUC; or if one or more citations were issued, penalties and/or fines have been paid and the citation has been closed; and
9. The carrier has no pending or outstanding advice letter filings.

The carrier must submit a Tier II Advice Letter⁸ at least 30 days prior to the requested date the carrier seeks to exit the market. The carrier must submit the following documents in PDF by email to [TD. PAL@cpuc.ca.gov](mailto:TD.PAL@cpuc.ca.gov):

1. Complete the Advice Letter Summary Form
2. Attach a declaration or affidavit signed by a principal of the company attesting that the carrier has met the above requirements;
3. Complete the Cover Letter, which must include the following:
 - a. Description of the Request;
 - b. Information about the carrier (i.e., Identification of the Decision that granted the operating authority, Effective Date of CPCN Decision, type of service(s) that the carrier was granted operating authority for);
 - c. Description of whether the carrier will continue to operate in other states, and/or operate using the same "DBA" or corporate entity names;
 - d. If the carrier had to transfer customers under the Mass Migration and Transfer of Customers Rules, provide a description of the process including the number and general locations of the impacted customers and identification of receiving carrier(s) ;
 - e. Identification of the Effective Date of the Request; and
 - f. The statements required under G.O. 96-B Industry Rule 6: Advice Letter Contents
4. Copy of Supporting Documents:

⁸ Information about Communications Advice Letter process is available at <https://www.cpuc.ca.gov/General.aspx?id=1097>.

- a. Copy of the Payment Confirmation from Telecommunications & User Fees Filing System (TUFFS) verifying that all payments were made through the system; and
 - b. Copy of Payment Confirmation for any Citations issued (e.g. copy of the check issued and date sent to CPUC Fiscal office).
5. Copy of the telco Advice Letter service list used to serve the AL.

Upon receipt of the Tier II Advice Letter, CD staff will perform the review and analysis of the submission. CD staff may reach out to the carrier to obtain clarification or additional documentation to be submitted as a supplement advice letter. Once CD staff has determined that the carrier has satisfied the listed requirements, the advice letter submission will be approved through the issuance of a letter, and the Commission will revoke the carrier's operating authority. The carrier's utility identification number will be promptly deactivated from the CPUC systems (e.g., UCS and TUFFS).

After a carrier's operating authority has been revoked, and it seeks to operate again in California, it must file for new operating authority. If the request is approved, the carrier will be issued a *new* utility identification number. Even if the carrier previously obtained operating authority through PU Code § 1013, it will be required to file a formal CPCN application pursuant to PU Code § 1001. In doing so, the carrier must disclose the previous revocation via a sworn affidavit.⁹ Similarly, a wireless carrier seeking to continue operations must submit a new WIR form and disclose the previous revocation via a sworn affidavit.

SAFETY

CD has identified no safety concerns associated with this resolution.

NOTICE AND PROTESTS

In compliance with Public Utilities Code § 311 (g), the Commission on December 9, 2020 provided notice to all telephone carriers that this draft Resolution is available at the Commission's website <http://www.cpuc.ca.gov/> and is available for public comment. Additionally, Communications Division informed these parties of the availability of the conformed Resolution at the same website.

On December 10, 2020, the Notice of Draft Resolution T-17723 was published on the Commission Daily Calendar.

⁹ D.07-06-017 established a simplified registration process for Non-Dominant Interexchange Carrier (NDIEC) corporations pursuant to P.U. Code § 1013; D.95-12-056, Appendix C; D.13-05-035, Rule 4.A.

On December 30, 2020, The Utility Reform Network (TURN) submitted comments on the Draft Resolution. Staff finds TURN's recommendations reasonable. CD adopted and incorporated into this resolution majority of TURNs recommendations. TURNs recommendations include:

- Require carrier to provide more specific information regarding marketed advertisements to customers and possible participation in public purpose programs within the past six months;
- Require carrier to include information in their Advice Letter whether or not the carrier will continue to operate in other states or use the same "DBA" or corporate name;
- Require carrier to include specific information in their Advice Letter for transferring their current customers if applicable; and
- Request that CD staff issue a letter once the Advice Letter has been approved.

CD did not adopt TURN's recommendation to prepare a Resolution with revisions to General Order 96-B to reflect the processes and procedures contained in this Resolution. Changes to GO 96-B will be addressed at a later time. CD also did not adopt TURN's recommendation to provide public notice, through a posting on the Commission website, of each Advice Letter submitted under the procedures adopted in this. The Commission already have existing procedures in place as it relates to public notice of advice letters and obtaining copies of filings. No reply comments were filed.

CONCLUSION

The Commission finds that it is reasonable and appropriate to delegate to CD ministerial authority to approve the requests of telephone corporations seeking to voluntarily surrender or relinquish operating authority in California via the advice letter process as long as the requirements established in this resolution are met. Approved advice letters automatically would revoke the carrier's operating authority granted by the Commission. CD staff will be able to process voluntary surrender or relinquishment of operating authority in a timelier manner, thus relieving both CD and the Commission of the burdensome process of issuing a resolution for these routine matters. As of the effective date of this Resolution, all carriers must satisfy and comply with all the requirements established here when requesting to voluntarily surrender or relinquish operating authority. After such revocation, a carrier seeking to resume operating in California as a telephone corporation must file for a new authority, as described in this Resolution.

FINDINGS

1. The California Public Utilities Commission has broad regulatory authority and grants operating authority to telephone corporations.
2. Operating authority is obtained through a formal application process pursuant to Public Utilities Code § 1001 or via the streamlined registration process pursuant to Public Utilities Code § 1013.
3. Commercial Mobile Radio Service (CMRS) providers (also known as wireless service providers) submit a Wireless Identification Registration (WIR) form and the CD Director issues a WIR approval letter once CD staff has determined that the wireless service provider met the WIR requirements pursuant to Decision (D.) 94-10-031.
4. General Order 96-B was established to provide public utilities in California a process to submit requests outside a formal proceeding at the Commission.
5. It is reasonable and appropriate for CD to approve the requests of telephone corporations to voluntarily surrender or relinquish operating authority in California via the advice letter process as long as the requirements established in this Resolution are met.
6. A carrier that does not satisfy the requirements established in this Resolution, should submit a Tier III advice letter, or file a formal application with the Commission to ensure that the request to voluntarily surrender or relinquish operating authority is in the public interest.
7. If CD staff find that the advice letter does not qualify for Tier II submission, staff can reject it without prejudice and advise the carrier to submit a Tier III advice letter or a formal application.
8. After revocation of its operating authority, a carrier seeking to continue operating in California is required to file for new operating authority with the Commission. Even if the carrier was previously authorized through PU Code § 1013, it will be required to submit a formal CPCN application pursuant to PU Code § 1001, and in doing so, must disclose the previous revocation via a sworn affidavit.¹⁰ Similarly, a wireless carrier seeking to continue operations must submit a new WIR form and disclose the previous revocation via sworn affidavit.

¹⁰ D.07-06-017 established a simplified registration process for NDIEC corporations pursuant to P.U. Code § 1013; D.95-12-056, Appendix C; D.13-05-035, Rule 4.A.

THEREFORE, IT IS ORDERED that:

1. The Advice Letter process outlined in this Resolution for telephone corporations that seek to voluntarily surrender or relinquish operating authority in California granted by the Commission shall be adopted.
2. Communications Division shall be authorized to approve the requests of telephone corporations and revoke the operating authority consistent with processing matters appropriate to a Tier II Advice Letter (effective after staff approval) without the need to issue a Commission Resolution. CD staff shall issue a letter to the carrier granting the requested voluntary surrender or relinquishment of its operating authority in California.
3. Telephone Corporations with operating authority granted by the Commission shall submit a Tier II Advice Letter seeking voluntary surrender or relinquishment of Operating Authority in California at least 30 days prior to the requested date the carrier seeks to exit the market.
4. After a telephone corporation's operating authority has been revoked, and it seeks again to operate in California, it shall file for a new operating authority with the Commission. Even if the telephone corporation was previously authorized through Public Utilities (PU) Code § 1013, it will be required to submit a formal Certificate of Public Convenience and Necessity application pursuant to PU Code § 1001, and in doing so, shall disclose the previous revocation via a sworn affidavit. Similarly, a wireless carrier seeking to continue operations shall submit a new Wireless Identification Registration form pursuant to Decision 94-10-031 and disclose the previous revocation via a sworn affidavit.

Resolution T-17723
CD/SBF

This Resolution is effective today.

I hereby certify that the California Public Utilities Commission adopted this Resolution at its regular meeting on January 14, 2021. The following Commissioners approved it:

/s/ RACHEL PETERSON

Rachel Peterson
Acting Executive Director

MARYBEL BATJER
President

MARTHA GUZMAN ACEVES
CLIFFORD RECHTSCHAFFEN
GENEVIEVE SHIROMA
Commissioners