
PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

January 19, 2023

Agenda ID #21307

TO PARTIES OF RECORD IN DRAFT RESOLUTION ALJ-433:

This is the draft Resolution of Administrative Law Margery Melvin Resolving K.22-08-011. It will not appear on the Commission's agenda sooner than 30 days from the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the draft resolution, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own order. Only when the Commission acts does the resolution become binding on the parties.

You may serve comments on the draft resolution. Comments shall be served (but not filed) within 20 days of the date that the draft Resolution was mailed and published on the Commission's website [link], as provided in Rule 14.5 of the Commission's Rules of Practice and Procedure. Comments shall be served upon all persons on this proceeding's service list and on ALJ Melvin at MMV@cpuc.ca.gov.

/s/ MICHELLE COOKE
Michelle Cooke
Acting Chief Administrative Law Judge

MLC:sgu

Attachment

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ-433
Administrative Law Judge Division
[Date]

RESOLUTION

RESOLUTION ALJ-433 Resolves the Appeal K.22-08-011 of I.T. Workshop, LLC (U1259C) from Citation Number CD-2022-06-007 issued June 22, 2022, by the Communications Division of the California Public Utilities Commission.

SUMMARY

This Resolution resolves K.22-08-011, the Appeal of I.T. Workshop, LLC (U1259C) from citation number CD-2022-06-007 issued June 22, 2022, by the Communications Division of the California Public Utilities Commission. Authorized by Public Utilities Code Sections 2101, 2107 and 2108, and Commission Resolution T-17601, citation number CD-2022-06-07 imposes a \$2,000 fine on I.T. Workshop, LLC. By failing to report intrastate revenue and remit public purpose program surcharges and user fees in a timely manner, I.T. Workshop, LLC violated Public Utilities Code Sections 247.1, 285, and 702. The citation is sustained.

K.22-08-011 is closed.

BACKGROUND

The California Public Utilities Commission's (Commission) Communications Division (CD) oversees compliance of telecommunications carriers and has the authority to impose fines.¹ On June 22, 2022, CD issued citation number CD-2022-06-007 and imposed a \$2,000 fine on I.T. Workshop, LLC (I.T. Workshop) for failing to report intrastate revenue and remit public purpose program surcharges and user fees in a timely manner as required by Public Utilities Code (Pub. Util. Code) Sections 247.1, 285, and 702.

¹ Resolution T-17601, June 22, 2018 at 1; Pub. Util. Code §§ 2101, 2107, 2018.

On August 30, 2022, I.T. Workshop timely appealed citation number CD-2022-06-007. I.T. Workshop appealed the citation because I.T. Workshop had not done business in California for several years and, prior to being sold to another company, it had no clients, offered no telecommunications services, and had \$0 revenue in California. I.T. Workshop asserted that it was not aware of the outstanding public purpose program surcharges due. As of August 29, 2022, I.T. Workshop filed all outstanding reports, submitted payment, and submitted a request to voluntarily withdraw from doing business in the state. I.T. Workshop indicated that it was not aware that its request for withdrawal was not accepted and that it was not in compliance with its regulatory obligations.

On September 16, 2022, CD filed the compliance filing for Citation CD-2022-06-007. On September 28, 2022, the Administrative Law Judge (ALJ) issued a Ruling setting the appeal hearing via videoconference for October 21, 2022. On October 21, 2022, the appeal hearing was conducted via videoconference with representatives from I.T. Workshop and the CD appearing as parties. The exhibits that I.T. Workshop and CD filed and served exhibits that were admitted into evidence at the hearing.

At the hearing, CD offered one witness while I.T. Workshop offered two witnesses. A regulatory analyst with CD staff appeared and testified on behalf of CD. Danny Patoni, an I.T. Workshop Director, and Jody Grimshaw appeared and testified on behalf of I.T. Workshop.

The CD witness testified that he has been with the Commission for 21 years working the entire period as a regulatory analyst in the CD. As a regulatory analyst, the CD witness testified that in this capacity, he is familiar with and experienced in conducting investigations, reviewing, and making determinations regarding telecommunications mergers, and issuing citations against carriers. The CD witness testified that he has issued over 100 citations, with approximately 30 of them involving carriers failing to remit user fees and surcharges. The CD witness testified that he was the investigator in Citation No. CD-2022-06-07, the citation at issue in the instant appeal.

The CD witness testified that his investigation revealed that I.T. Workshop did not report its revenue and remit surcharges and associated fees as required through the Telecommunications & User Fees Filing System (TUFFS) as required. The CD witness

testified that on August 5, 2021², and February 8, 2022³, the Commission's fiscal office sent I.T. Workshop email messages advising I.T. Workshop that surcharge funds must be reported no later than 40 days following the close of a reporting period.⁴ The CD witness testified that I.T. Workshop did not respond to the fiscal office's email messages and I.T. Workshop did not report revenue and remit surcharges and associated fees as required. The CD witness testified that the email messages to the appellant were not returned to the fiscal office email address as undeliverable. The CD witness testified that due to the appellant's failure to respond to email messages from the fiscal office, the matter was referred to the Communications Division (CD).

The CD witness testified that on June 22, 2022, CD sent I.T. Workshop a letter via U.S. certified mail⁵ to the appellant's last known address and on June 23, 2022, sent an email to the appellant's last known e-mail address⁶ advising I.T. Workshop of Citation No. 2022-06-007 against I.T. Workshop, which imposed a penalty of \$1,000 against the appellant for failing to report revenue and remit surcharges and associated fees as required.⁷ The CD witness testified and the Citation documentation indicated that the appellant had until July 22, 2022, to pay the assessed penalty of \$1,000.⁸ The Citation documentation included a Citation Payment Form with an address for remitting the penalty payment, instructions for remitting the penalty payment and information and instructions on paying the penalty via check.⁹ In addition, the Citation documentation included an Interpreter Request Form and an Appendix of Authorities.¹⁰

The CD witness testified that CD sent I.T. Workshop a second email¹¹ and a letter via

² The subject of the email was titled, "June 2021 (Jan. to June 2021 for De Minimus) Surcharges Due on August 9, 2021. (CD Exhibit 10).

³ The subject of the email was titled, "December 2021 (July to December 2021 for De Minimus) Surcharges Due on February 9, 2022. (CD Exhibit 11).

⁴ CD Exhibit 10 and CD Exhibit 11.

⁵ CD Compliance Filing.

⁶ *Ibid.*

⁷ *Ibid.*

⁸ *Ibid.*

⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ *Ibid.*

U.S. certified mail¹² at I.T. Workshop's last known address on August 1, 2022, for Citation No. CD 2022-06-007, which increased the penalty amount from \$1,000 to \$2,000 and gave I.T. Workshop a deadline of August 31, 2022, to pay the penalty.¹³ The Citation documentation included information on the Citation and on appealing it, a Citation Payment Form, a Notice of Appeal Form, an Interpreter Request Form, and an Appendix of Authorities.¹⁴

Darren Patoni appeared and offered testimony in support of appellant I.T. Workshop. Patoni testified that he is an Owner and Director of I.T. Workshop. Patoni testified that on June 22, 2022, he first learned that the CD had been attempting to reach I.T. Workshop regarding outstanding surcharges and associated fees and that a penalty in the amount of \$1,000 had been assessed against the company. Patoni testified that he responded immediately to CD's June 22, 2022, letter by contacting CD and speaking to the same CD witness who appeared at the instant hearing and who testified on behalf of CD. Patoni testified that on or about July 8, 2022, I.T. Workshop was assessed an additional \$1,000 penalty. Patoni testified that he takes issue with this additional assessment of \$1,000 because: (1) he did not have access to the CPUC portal to report I.T. Workshop's revenue and did not know the amount of fees I.T. Workshop needed to pay; (2) the email notification from the fiscal office and CD was insufficient to properly advise I.T. Workshop of its obligations to the CPUC; (3) I.T. Workshop had not been doing business in California since 2018; and (4) I.T. Workshop should have been given 30 days from CD's June 22, 2022 letter to the appellant to report its revenue and remit any surcharges and fees before an additional \$1,000 was imposed.

Patoni testified that the email addresses that the fiscal office and CD used for I.T. Workshop were no longer associated with the company. Patoni did not testify that the mailing addresses used by CD to contact I.T. Workshop were not associated with the company. Patoni testified that I.T. Workshop had an obligation to update its contact information with CD and did not do so. Patoni testified that despite I.T. Workshop's failure to report revenue and remit surcharges and associated fees as required by July 22, 2022, he communicated with the CD witness representing CD at the hearing in June 2022 to attempt to decertify I.T. Workshop as a carrier but was unable to successfully do so.

Patoni testified that on August 5, 2022, he first learned about the CPUC's online

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ *Ibid.*

reporting and payment system referred to as TUFFS which allows companies to report revenue and pay all surcharges and fees and penalties online. Patoni testified that on August 11, 2022, he first gained access to TUFFS. Patoni testified that on or about August 26, 2022, he received a password via email from CD to access the TUFFS system.

Patoni testified that on August 29, 2022, he paid all outstanding surcharges and fees¹⁵ and sent a letter to CD requesting that CD decertify I.T. Workshop as a carrier. Patoni testified that there was no way he could have paid the increased penalty of \$1,000 (\$2,000 total) imposed against I.T. Workshop by July 22, 2022, because I.T. Workshop did not have access to TUFFS. Patoni testified that I.T. Workshop is being assessed a \$2,000 penalty for less than \$100 of surcharges and fees. Patoni testified that the increased penalty imposed against it for failing to report revenue and remit surcharges and fees and pay the \$1,000 penalty imposed against in on June 22, 2022, for failing to pay by July 22, 2022, is frivolous. Patoni testified that the I.T. Workshop simply wants to be decertified as a carrier in California because it has not operated in California since 2018.

Witness Grimshaw testified in support of I.T. Workshop. Witness Grimshaw testified that she contacted the same CD witness who appeared at the instant hearing and testified on behalf of CD in August 2022 to assist I.T. Workshop in gaining access to TUFFS and reporting its revenue and remitting surcharges and fees as required.

RESOLUTION OF THE APPEAL

Pursuant to Pub. Util. Code Sections 247.1 and 285, all public utilities, including wireless telecommunication carriers in California, such as I.T. Workshop, are required to report intrastate revenue and remit public purpose program surcharges and user fees. Pursuant to Pub. Util. Code Section 702, every public utility shall obey and comply with every order, decision, direction or rule made or prescribed by the commission in the matters specified in the section, or any other matter in any way relating to or affecting its business as a public utility and shall do everything necessary or proper to secure compliance therewith by all of its officers, agents, and employees. Pursuant to Resolution T-17601, the failure of a company to report and remit surcharge payments for at least six months as directed in Commission resolutions, decisions, orders, and the Public Utility Code may result in a penalty of \$1,000 per event up to a maximum of \$3,000.¹⁶

¹⁵ I.T. Workshop Exhibit 2.

¹⁶ Resolution T-17601, Appendix A.

There was a period of 30 days when I.T. Workshop could have reported and remitted fees and associated surcharges and paid the \$1,000 penalty to have avoided the \$1,000 penalty increase for the total penalty assessment of \$2,000. This date was July 23, 2022. As of the date of the hearing, October 22, 2022, the I.T. Workshop is still considered an active carrier because it has not completed the carrier decertification process (reporting and remitting all outstanding surcharges and fees and paying all outstanding penalties). I.T. Workshop's defense to the imposed penalty that its email address is not current falls short because I.T. Workshop cannot overcome the fact that it acknowledged receiving notice of its outstanding surcharges and fees by U.S. certified mail. Moreover, with respect to I.T. Workshop's argument that CD did not have I.T. Workshop's current email address and as such I.T. Workshop did not have notice of its surcharges and fees, it is I.T. Workshop's obligation to notify the Commission of its latest and most accurate contact information. The Commission's fiscal office and CD sent I.T. Workshop numerous notices using the contact information provided by I.T. Workshop via email and certified mail. I.T. Workshop failed to timely report and remit fees and associated surcharges with I.T. Workshop by the July 23, 2022, deadline. CD appropriately increased the penalty amount imposed against I.T. Workshop from \$1,000 to \$2,000 and set a new deadline of August 31, 2022. If I.T. Workshop had reported and remitted fees and surcharges by July 22, 2022, it would not have been assessed an additional penalty of \$1,000. I.T. Workshop's argument that it did not having access to TUFFS fails because, through its many notices to I.T. Workshop, CD provided an address and instructions to I.T. Workshop on remitting payment via check. The penalty is consistent with the laws and regulations of the Commission. Accordingly, citation CD-2022-06-007 is affirmed and I.T. Workshop must pay the \$2,000 penalty for failure to timely remit public purpose program surcharges and user fees.

SAFETY

The Commission has broad authority to regulate public utilities, particularly regarding safety concerns. Although I.T. Workshop's failure to report intrastate revenue and remit public purpose program surcharges and user fees in a timely manner did not result in damage to any persons or property, the integrity of the regulatory process was harmed by I.T. Workshop's disregard for statutory and Commission directives. The fine is a deterrent to future disregard of the Commission's regulatory process.

COMMENTS

Cal. Pub. Util. Code §311(g)(1) requires that a draft resolution be served on all parties and be subject to a public review and comment period of 30 days or more, prior to a vote of the Commission on the resolution. Accordingly, the draft Resolution was timely mailed for comments.

ASSIGNMENT OF PROCEEDING

Margery L. Melvin is the assigned ALJ for this citation appeal.

FINDINGS OF FACT

1. On August 5, 2021, and February 8, 2022, the Commission's fiscal office sent an email and letter to I.T. Workshop advising I.T. Workshop that surcharge funds must be reported no later than 40 days following the close of a reporting period.
2. On June 22, 2022, the Communications Division sent I.T. Workshop a United States Postal Service certified letter and on June 23, 2022, an email advising I.T. Workshop of Citation No. 2022-06-007 imposing a penalty against I.T. Workshop of \$1,000 for I.T. Workshop's failure to report revenue and remit surcharges and associated fees as required.
3. In its June 22, 2022, Citation against I.T. Workshop, the Communications Division advised I.T. Workshop that it had until July 22, 2022, to pay the assessed penalty of \$1,000.
4. I.T. Workshop failed to pay the penalty of \$1,000 assessed against it by July 22, 2022, as demanded in Communications Division June 22, 2022, Citation.
5. On August 1, 2022, the Communications Division sent I.T. Workshop a second United States Postal Service certified letter and email advising I.T. Workshop of Citation No. 2022-06-007 increasing the penalty against I.T. Workshop from \$1,000 to \$2,000 for I.T. Workshop's failure to pay the assessed penalty of \$1,000 by July 22, 2022.
6. Darren Patoni learned on June 22, 2022, from the certified letter that he received from Communications Division, that the Communications Division had been attempting to contact I.T. Workshop regarding outstanding surcharges and associated fees and that a penalty of \$1,000 had been imposed against the company.
7. I.T. Workshop did not notify Communications Division of its change in contact information until Darren Patoni communicated with Danny Tse of the Communications Division regarding the citation on or about June 22, 2022.
8. On August 26, 2022, I.T. Workshop reported its revenue and remitted surcharges and associated fees.
9. No personal harm or property damage resulted from I.T. Workshop's violation.

CONCLUSIONS OF LAW

1. I.T. Workshop failed to comply with the Commission’s regulations and statutory obligations as a telecommunications carrier in California.
2. I.T. Workshop failed to report intrastate revenue, remit public purpose program surcharges and user fees, and pay a fine of \$1,000 by July 22, 2022.
3. The increase of \$1,000 for a total fine of \$2,000 is consistent with Public Utilities Code Sections 702, 2101, 2107, 2108, and Commission Resolution T-17601.

THEREFORE, IT IS ORDERED that:

1. Citation number CD-2022-06-007 is affirmed.
2. The \$2,000 fine imposed against I.T. Workshop for failing to report intrastate revenue, remit public purpose program surcharges and user fees, and pay an imposed penalty of \$1,000 by July 22, 2022, is affirmed.
3. I.T. Workshop’s appeal is denied.
4. I.T. Workshop must pay a fine of \$2,000 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, California 94102.
5. I.T. Workshop must make full payment within 30 days of the effective date of this Resolution. I.T. Workshop shall write on the face of the check or money order, “For deposit to the General Fund pursuant to Resolution ALJ-433.”
6. K.22-08-011 is closed.

This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on _____, the following Commissioners voting favorably thereon:

RACHEL PETERSON
Executive Director

ALJ/MMV/sgu

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

RESOLUTION ALJ-433 Resolves the Appeal K.22-08-011 of I.T. Workshop, LLC (U1259C) from Citation Number CD-2022-06-007 issued June 22, 2022, by the Communications Division of the California Public Utilities Commission.

INFORMATION REGARDING SERVICE

I have electronically served all persons on the attached official service list who have provided an e-mail address for K.22-08-011.

Upon confirmation of this document’s acceptance for filing, I will cause a copy of the filed document to be served by U.S. mail on all parties listed in the “Party” category of the official service list for whom no e-mail address is provided.

Dated January 19, 2023, at San Francisco, California.

/s/ SHANE GUTTO

Shane Gutto

N O T I C E

Persons should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074 or TDD# (415) 703-2032 five working days in advance of the event.

Resolution ALJ-433 ALJ/MMV/sgu

***** PARTIES *****

***** SERVICE LIST *****

Last Updated on 19-JAN-2023 by: KB3
K2208011 LIST

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