
PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

May 12, 2023

Agenda ID #21597

TO PARTIES OF RECORD IN DRAFT RESOLUTION ALJ-441:

This is the draft Resolution of Administrative Law Hazlyn Fortune Resolving K.22-11-006. 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 Fortune at HCF@cpuc.ca.gov.

/s/ KATHERINE K. MACDONALD for
Michelle Cooke
Acting Chief Administrative Law Judge

MLC:mph

Attachment

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ-441
Administrative Law Judge Division
[Date]

RESOLUTION

RESOLUTION ALJ-441. Resolves K.22-11-006, the Appeal by ZTG Inc. of Citation No. CD-2022-09-021 issued by the Communications Division.

SUMMARY

This resolution resolves the appeal of Citation No. CD-2022-09-021 by the California Public Utilities Commission's Communications Division. Citation No. CD-2022-09-021 issues a fine of \$3,000.00 to ZTG Inc. (ZTG) for failing to comply with reporting requirements as follows:

1. Operation and Financial Report (due March 31, 2022)
2. Performance Bond (due March 31, 2022)
3. Affiliate Transaction Report (due May 1, 2022)

Pursuant to Resolution T-17601 a fine of \$1,000.00 is imposed on each non-compliance event. At the time the citation was issued ZTG had not fulfilled any of the reporting requirements. The citation is sustained and ZTG is directed to pay the fine in four equal installments of \$750.00 beginning thirty days from the adoption of this Resolution and every subsequent 30 days in succession until the entire fine is paid in full.

BACKGROUND

Pursuant to California Public Utilities Commission (Commission) Resolution T-17601 and California Public Utilities (Pub. Util.) Code Sections 702, 2101, 2107 and 2108, the Communications Division (CD) of the Commission issued ZTG, Inc. (U-6651-C) a citation assessing a \$3,000.00 fine for noncompliance with the following:

- Annual Operational and Financial Information Report, due March 31, 2022
- Annual Performance Bond Requirement, due March 31, 2022

- Annual Affiliate Transaction Report, due May 1, 2022

Resolution T-17601 (Resolution) authorizes the CD Staff (Staff) to implement a citation program for enforcing compliance by telecommunications carriers with the Commission's Resolutions, Decisions, Orders, and the Public Utilities Code.

The Resolution adopted a citation procedure, a list of specific violations, and the corresponding amount of each fine or penalty as detailed in Appendix A, as well as an appeal procedure outlined in Appendix B. In turn, a carrier issued such a citation may accept the fine imposed or contest it through the process of appeal under Resolution ALJ-377. Here is a brief background on the relevant Public Utilities Codes for this citation:

Pub. Util. Code § 701

The Commission may supervise and regulate every public utility in the State and may do all things, whether specifically designated in this part or in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction.

Pub. Util. Code § 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 this part, 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 its officers, agents, and employees.

Pub. Util. Code § 2101

The Commission shall see that the provisions of the Constitution and statutes of this State affecting public utilities, the enforcement of which is not specifically vested in some other officer or tribunal, are enforced and obeyed, and that violations thereof are promptly prosecuted and penalties due the State therefor recovered and collected, and to this end it may sue in the name of the people of the State of California. Upon the request of the Commission, the Attorney General or the district attorney of the proper county or city and county shall aid in any investigation, hearing, or trial had under the provisions of this part, and shall institute and prosecute actions or proceedings for the enforcement of the provisions of the Constitution and statutes of this State affecting public utilities and for the punishment of all violations thereof.

Pub. Util. Code § 2107

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 otherwise been 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.

Pub. Util. Code § 2108

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 offence, and in case of a continuing violation each day's continuance thereof shall be a separate and distinct offense.

DISCUSSION

ZTG filed a timely appeal of Citation CD-2022-09-021 and the Commission granted the request. The original hearing date was set for January 12, 2023, but was continued to January 27, 2023. The appeal hearing was held on January 27, 2023, virtually, with participants in Northern and Southern California. ZTG and CD appeared as parties at the hearing. CD offered into evidence Exhibits numbered 1 through 5:

- Exhibit 1: January 7, 2022, email, sent to all carriers from CD; "Annual Notice of Reporting Obligations to All Carriers." Includes, Notice and service list.
- Exhibit 2: February 7, 2022, email, sent to ZTG Inc. from CD; "Reminder Notice of Annual Reporting Obligations."
- Exhibit 3: July 8, 2022, email, sent to ZTG Inc. from CD; "Notice of Non-compliance - Immediate Action Required."
- Exhibit 4: May 7, 2002, CPUC Opinion granting ZTG Inc.'s application for certificate of public convenience and necessity.
- Exhibit 5: Compliance History of ZTG Inc.

ZTG offered into evidence its appeal, at the originally scheduled hearing for January 12, 2023. At the continued hearing on January 27, 2023, ZTG offered into evidence Exhibits numbered 1 through 4:

- Exhibit 1: Notice of Appeal
- Exhibit 2: Covid19 Medical Results (Ricardo Zandrelli)

Exhibit 3: Baja California ID (Driver's License, Ricardo Zandrelli)

Exhibit 4: California ID (Driver's License, Ricardo Zandrelli)

RESOLUTION OF THE APPEAL

During the hearing, the analyst for CD testified that ZTG had violated Resolution T-17601 by failing to submit its annual operational and financial information report, annual performance bond, and annual affiliate transaction report. A fourth violation, failure to timely submit the annual tariff filing, was waived. Each of the three violations carries a \$1,000.00 fine which culminated in a total \$3,000.00 fine noted in Citation CD-2022-09-021.

The CD witness reviewed their exhibits documenting e-mail communications to all telecommunications carriers on January 7, 2022, about the upcoming reporting obligations and the possibility of fines for non-compliance¹; a reminder e-mail on February 7, 2022, about their annual reporting obligations; a July 8, 2022 email sent informing ZTG about noncompliance and the need for urgent action; the May 7, 2022, Commission decision granting ZTG a Certificate of Public Necessity and Convenience (CPCN) detailing reporting requirements and a schedule of past deadlines that ZTG had missed.²

Mr. Riccardo Zandrelli, the owner of ZTG Inc., provided testimony explaining that he contracted COVID-19 in late 2021³ while residing in Baja California Mexico. Mr. Zandrelli reported that he missed the emails from CD because he was too sick to open his laptop. He missed the certified letter informing him of the fine because it was delivered to his office in San Diego while he was in Mexico. Mr. Zandrelli did not deny that he filed the required documents late.⁴ The exhibits that Mr. Zandrelli submitted substantiate that he had contracted COVID-19 and that he has valid drivers' licenses in both Baja California Mexico and San Diego California, United States. Mr. Zandrelli stated that although he acknowledged he filed the required documents late, he claimed that he does not have the funds to pay the fine.

On January 30, 2023, the assigned Administrative Law Judge issued a ruling requesting additional information to support Mr. Zandrelli's claim of financial distress. On February 11, 2023, Mr. Zandrelli served the service list Form 1040 Income Tax

¹ K2211006 Reporter's Transcript, January 27, 2023, Pages 1 -35, Volume 1, at 11 to 14.

² *Ibid.*

³ K2211006 Reporter's Transcript, January 27, 2023, Pages 1 -35, Volume 1, at 15 line 10.

⁴ K2211006 Reporter's Transcript, January 27, 2023, Pages 1 -35, Volume 1, at 15 line 18.

Statements for 2020 and 2021; proof of application for a Small Business Association (SBA) Loan; an invoice for office rent showing a past due balance; profit and loss statements for 2020 and 2021; and bank statements from June 2022 through December 2022. All the materials demonstrate financial distress.

Mr. Zandrelli has cooperated with CD Staff and acted quickly to provide the required reporting document. However, Mr. Zandrelli is legally bound by the reporting requirements of the CPCN license, therefore, the citation is appropriate and cannot be reduced or dismissed. Mr. Zandrelli must pay the fine in four equal installments of \$750.00. Mr. Zandrelli's hardship or ability to pay will be alleviated/reduced through the use of a payment plan. The first payment is due thirty days from the adoption of this Resolution and every subsequent 30 days in succession until the entire fine is paid in full. Failure to make each payment on time will trigger the entire remaining balance to be paid at the next scheduled installment date.

COMMENTS

The draft resolution was served on the parties for public review and comment in accordance with Public Utility Code Section 311(g)(1), Article 14 of the Commission's Rules of Practice and Procedure, and Rule 18 of Resolution ALJ-377.

ASSIGNMENT OF PROCEEDING

Hazlyn Fortune is the assigned Administrative Law Judge for this citation appeal.

FINDINGS AND CONCLUSIONS

1. ZTG Inc. violated Resolution T-17601 by failing to submit its annual operational and financial information report, annual performance bond, and annual transaction report.
2. CD issued a citation on October 6, 2022, with a penalty amount of \$3,000.00 for noncompliance for each violation.
3. Mr. Zandrelli, the owner of ZTG Inc., contracted the COVID-19 virus sometime in late 2021.
4. Mr. Zandrelli, the owner of ZTG Inc., admitted to being unable to respond to emails and certified mail.
5. Mr. Zandrelli, the owner of ZTG Inc., provided documentation to substantiate financial distress.

6. Mr. Zandrelli, the owner of ZTG Inc., has subsequently resolved the issues in this citation by filing all the necessary reporting requirements.

THEREFORE, IT IS ORDERED that:

1. The Appeal of ZTG Inc. of Citation CD-2022-09-021 issued on October 6, 2022, by the California Public Utilities Commission’s Communications Division is denied.
2. The violation and penalties set in Citation CD-2022-09-021 are affirmed.
3. ZTG Inc. must pay the penalty of \$3,000.00 in four equal installments of \$750.00. The first payment is due within 30 days after the issuance of this Resolution, with each subsequent payment due within 30 days of the prior payment. Failure to make each payment on time will trigger the entire remaining balance to be paid at the next scheduled installment date. Each payment must be made 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, CA 94102-3298. ZTG Inc. shall write on the face of the check or money order “For deposit to the California General Fund per Resolution ALJ-441.”
4. K.22-11-006 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

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

RESOLUTION ALJ-441. Resolves K.22-11-006, the Appeal by ZTG Inc. of Citation No. CD-2022-09-021 issued by the Communications Division.

INFORMATION REGARDING SERVICE

I have electronically served all persons on the attached official service list who have provided an e-mail address for K.22-11-006.

Upon confirmation of this document's acceptance for filing, I will cause a Notice of Availability of the 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 May 12, 2023, at San Francisco, California.

/s/ MARILOU HIPOLITO

Marilou Hipolito

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

***** SERVICE LIST *****
Last Updated on 12-MAY-2023 by: KB3
K2211006 LIST

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