

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE**

IN THE MATTER OF THE ABANDONMENT OF)
THE AUTHORITY TO CONDUCT INTEREXCHANGE)
INTRASTATE PAYPHONE SERVICES WITHIN) PSC DOCKET NO. 12-407
THE STATE OF DELAWARE FOR STERLING)
PAYPHONES, LLC (FILED AUGUST 28, 2012))

ORDER NO. 8367

AND NOW, to-wit, this 7th day of May, 2013;

WHEREAS, on October 26, 2009, Sterling Payphones, LLC ("Sterling") applied with the Public Service Commission ("Commission") for a Certificate of Public Convenience and Necessity ("CPCN") to conduct interexchange intrastate payphone services within the State of Delaware; and

WHEREAS, 26 *Del. Admin. C.* §4002-2.3.6 requires each applicant seeking a CPCN to supply to the Commission a written statement affirming that the applicant agrees to comply with all of the provisions of the Commission's Regulations, and Sterling submitted to the Commission such written statement; and

WHEREAS, on October 26, 2009, the Commission granted Sterling a CPCN effective October 26, 2009; and

WHEREAS, on or about February, 15 2012, the Commission Staff sent by first-class mail, postage pre-paid, an annual assessment to Sterling at the business address as set forth in the records of the Commission; and

WHEREAS, the assessment envelope was returned to the Commission as "Not Deliverable;" and

WHEREAS, in one last attempt **to** contact Sterling, on August 28, 2012, the Commission Staff mailed a letter which requested that Sterling complete an Affidavit of General Compliance and confirm that Sterling had

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abandoned its CPCN to provide payphone services in the State of Delaware;
and

WHEREAS, the Affidavit had to be returned by September 11, 2012. As of April 18, 2013, Staff had not received such Affidavit of General Compliance; and

WHEREAS, 26 Del. Admin. C. §4002-2.6 requires that each certificated payphone service provider must notify the Commission in writing within ten days following the change of any information required by 26 Del. C. §§4002-2.3.1 through 2.3.8; and

WHEREAS, 26 Del. C. §203A(c)(1) provides that no public utility shall abandon or discontinue, in whole or in part, any business, operations, or services provided under a CPCN or otherwise, which are subject to jurisdiction of the Commission without first having received Commission approval for such abandonment or discontinuance; and

WHEREAS, 26 Del. Admin. C. §4002-2.7 requires that each certificated payphone service provider must provide written notice to the Commission at least ten days prior to the cession of all operations as a payphone provider in the State of Delaware; and

WHEREAS, Sterling either has failed to provide the Commission with written notice as required by 26 Del. Admin. C. §4002-2.6 that it has changed its business address or has failed to provide the Commission with written notice as required by 26 Del. C. §203A(c)(1) and 26 Del. Admin. C. §4002-2.7 that it has ceased all operations as a payphone provider in the State of Delaware; and

WHEREAS, Sterling has therefore violated the terms of its CPCN to provide payphone services in the State of Delaware in that it has failed

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to comply with the provisions of the Commission's Regulations and/or Delaware law; and

WHEREAS, the Commission Staff posted a public notice on the Commission's website on September 19, 2012, which stated that if Sterling failed to comply with the Commission's Regulations and/or Delaware Law on or before October 5, 2012, the Commission would revoke Sterling's CPCN for interexchange intrastate payphone services within the State of Delaware; and

WHEREAS, Sterling failed to respond by such deadline;

**NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE
VOTE OF NOT FEWER THAN THREE COMMISSIONERS:**

1. That the Certificate of Public Convenience and Necessity of Sterling Payphones, LLC to conduct interexchange intrastate payphone services within the State of Delaware, which the Commission granted effective October 26, 2009, is hereby revoked effective with the date of this Order.

2. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

Chair _____

/s/ Joann T. Conaway
Commissioner

/s/ Jeffrey J. Clark
Commissioner

/s/ Jaymes B. Lester
Commissioner

Commissioner

ATTEST:

/s/ Alisa Carrow Bentley
Secretary