

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2016-256-C - ORDER NO. 2016-759

NOVEMBER 4, 2016

IN RE: Application of CallCatchers Inc. d/b/a) ORDER GRANTING
FreedomVoice Systems for a Certificate of) CERTIFICATE AND
Public Convenience and Necessity for) APPROVING MODIFIED
Authority to Provide Resold Interexchange) ALTERNATIVE
Services in the State of South Carolina and) REGULATION
for Alternative Regulation of its)
Interexchange Offerings)

This matter comes before the Public Service Commission of South Carolina (“Commission”) by way of the Application of CallCatchers Inc. d/b/a FreedomVoice Systems (“FreedomVoice” or the “Company”) requesting a Certificate of Public Convenience and Necessity authorizing it to provide resold interexchange telecommunications services within the State of South Carolina. The Company’s Application was filed pursuant to S.C. Code Ann. § 58-9-280 (Supp. 2015) and the rules and regulations of the Commission. By its Application, the Company also requests alternative regulation of its business interexchange services as first approved in Docket No. 1995-661-C, and waiver of certain Commission regulations.

The Commission’s Clerk’s Office instructed the Company to publish, one time, a Notice of Filing in newspapers of general circulation in the areas of the state affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the Application of the Company and of the manner and time in which to file the appropriate

pleadings for participation in the proceeding. The Company complied with this instruction and provided the Commission with proof of publication of the Notice of Filing.

On August 22, 2016, counsel for the South Carolina Office of Regulatory Staff (“ORS”) filed a letter with the Commission setting out that it had reviewed the Application and did not oppose the Commission granting the Application. The ORS also sought to be permitted to be excused from the hearing in the Docket. The Applicant did not object to the ORS request. The Hearing Examiner granted the ORS request to be excused from the hearing by Directive dated August 24, 2016.

A hearing was convened on September 19, 2016, at 10:30 am in the offices of the Commission in Columbia, South Carolina, before Randall Dong, Hearing Examiner. FreedomVoice was represented by John J. Pringle, Jr., Esquire.

Gino Capozzi, Senior Manager- Tax and Regulatory Compliance for the Company, appeared via video conference and testified in support of the Company’s Application. Mr. Capozzi adopted the prefiled direct testimony of Eric Thomas for purposes of the hearing. The record reveals that the Company is a corporation incorporated under the laws of the State of Delaware and that it is registered to transact business in South Carolina as a foreign corporation.

According to Mr. Capozzi, the Company seeks authority as a reseller of interexchange services. Mr. Capozzi explained the Company’s request for authority, and the record further reveals the Company’s services, operations, and marketing procedures. Specifically, the Company utilizes a proprietary interactive voice response (“IVR”) and unified messaging platform. The Company purchases toll free and direct inward dialing

(“DID”) numbers, and resells those numbers as part of a virtual office service. Small business customers then use those numbers to access the Company’s integrated suite of additional services and functionality, including: auto attendant, call forwarding/distribution, call queuing, call screening, Internet fax/fax back, and enhanced voicemail capabilities such as voice-to-text conversion and email delivery of voicemails. FreedomVoice will also provide Interconnected Voice over Internet Protocol (“I-VoIP”) services.

Mr. Capozzi also discussed FreedomVoice’s technical, financial, and managerial resources to provide the services for which it seeks authority. Mr. Capozzi offered that FreedomVoice possesses sufficient financial resources to support its operations in South Carolina.

With regard to management and technical capabilities, the Company’s Application and Mr. Capozzi’s testimony both evidence that the Company’s management has extensive experience in telecommunications, information technology, regulatory matters, and accounting and finance. Mr. Capozzi also testified that the Company will operate in accordance with Commission rules, regulations, guidelines, and Commission orders. Mr. Capozzi offered that approval of the Company’s Application would serve the public interest.

Mr. Capozzi, on behalf of the Company, requests a waiver of 10 S.C. Code Ann. Regs. 103-610, since the Company’s books are maintained in California. Further, the Company requests an exemption from record keeping policies that require maintenance of financial records in conformance with the Uniform System of Accounts (“USOA”). The

Company maintains its books in accordance with Generally Accepted Accounting Principles (“GAAP”).

After consideration of the applicable law, the Company’s Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. The Company is incorporated as a corporation under the laws of the State of Delaware and is authorized to do business as a LLC in South Carolina by the Secretary of State.

2. The Company desires to operate as a provider of resold interexchange services in South Carolina.

3. We find that the Company possesses the managerial, technical, and financial experience and capability to operate as a provider, through resale, of interexchange services in South Carolina.

4. We find that the issuance of a Certificate of Public Convenience and Necessity to the Company to operate as a reseller of interexchange services in South Carolina would be in the best interest of the citizens of South Carolina by providing more innovative services.

5. The Company requests a waiver of 10 S.C. Code Ann. Regs. 103-610 (Supp. 2015). The Commission finds the Company’s requested waiver reasonable and understands the potential difficulty presented to the Company should the waiver not be granted. Further, we find that a waiver of 10 S.C. Code Ann. Regs. 103-610 to be in the

public interest. We also believe that exemption from the policies that would require the Company to keep its records under the USOA is reasonable.

6. The ORS was permitted to be excused from the hearing and the fact that it did not oppose the grant of the Application herein is duly noted.

CONCLUSIONS OF LAW

1. The Commission concludes that the Company possesses the managerial, technical, and financial resources to provide the telecommunications services as described in its Application.

2. The Commission concludes that the issuance of the authority to provide intrastate interexchange telecommunications services as requested by the Company and as set forth in its Application and Mr. Capozzi's testimony is in the best interests of the citizens of the State of South Carolina.

3. The Commission concludes that a Certificate of Public Convenience and Necessity should be granted to the Company to provide resold intrastate interexchange telecommunications services.

4. Should the Company offer residential interexchange services in the future, the Commission adopts a rate design for the Company for its residential interexchange services which include maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

5. Should the Company offer residential interexchange services in the future, the Company shall not adjust its residential interexchange rates for end-users below the approved maximum level without notice to the Commission and to the public. The Company shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. § 58-9-540 (Supp. 2015).

6. The Commission concludes that the Company's intrastate interexchange business telecommunications services shall be regulated in accordance with the principles and procedures established for alternative regulation of business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. The Commission has previously granted this "alternative regulation" to competitive intrastate interexchange carriers operating within South Carolina, and the Commission concludes that the competitive marketplace requires the Commission to allow this flexible regulation to those carriers which request it. Specifically, the Commission-approved alternative regulation allows

business service offerings, including consumer card services and operator services, to be subject to a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. However, pursuant to Order No. 2001-997 (Docket No. 2000-407-C), this Commission has modified alternative regulation by the re-imposition of rate caps with regard to certain “operator-assisted calls” where a customer uses a local exchange carrier’s calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven (7) days, the tariff filing will then be suspended until further order of the Commission.

7. We conclude that the Company’s request for waiver of 10 S.C. Code Ann. Regs. 103-610 should be granted, since strict compliance with the regulation potentially causes undue hardship on the Company. We also grant exemption from the policies requiring the use of USOA.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

1. A Certificate of Public Convenience and Necessity should be granted to the Company to provide intrastate interexchange services through the resale of services authorized for resale by tariffs of carriers approved by the Commission.

2. The regulatory treatment adopted for the Company's services shall conform to those designs described in Conclusions of Law above.

3. If it has not already done so, the Company shall file its revised tariff utilizing the Commission's e-filing system for tariffs within thirty (30) days of the issuance of this Order. The revised tariff should be electronically filed in a text searchable PDF format using the Commission's DMS System (<http://dms.psc.sc.gov>). An additional copy should be sent via email to etariff@psc.sc.gov to be included in the Commission's ETariff System (<http://etariff.psc.sc.gov>). Future revisions to the tariff should be made using the ETariff System. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

4. The Company is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

5. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

6. The Company shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission.

7. With regard to the origination and termination of toll calls within the same LATA, the Company shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been

rendered obsolete by the toll dialing parity rules established by the FCC pursuant to the Telecommunications Act of 1996 (47 C.F.R. § 51.209). Specifically, the Company shall comply with the imputation standard as adopted by Order No. 93-462 and more fully described in paragraph 4 of the Stipulation and Appendix B approved by Order No. 93-462.

8. The Company shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipts report will necessitate the filing of intrastate information. Therefore, the Company shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the ORS's website at www.regulatorystaff.sc.gov. The title of this form is "Telecommunications Company Annual Report." This form shall be utilized by the Company to file annual financial information with the Commission and ORS and shall be filed no later than April 1st.

9. Commission gross receipts forms are due to be filed with the Commission and ORS no later than August 31st of each year. The proper form for filing gross receipts information can be found at the ORS website at www.regulatorystaff.sc.gov, and the appropriate form is entitled "Gross Receipts Form."

10. Each telecommunications company certified in South Carolina is required to file annually with the ORS the Intrastate Universal Service Fund ("USF") worksheet, which may be found on the ORS's website at www.regulatorystaff.sc.gov. This worksheet provides ORS information required to determine each telecommunications company's

liability to the State USF fund. The Intrastate USF worksheet is due to be filed annually no later than August 1st with the Commission and ORS.

11. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests, and repairs. In addition, the Company shall provide to the Commission and ORS in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. The Company shall file the names, addresses, and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The “Authorized Utility Representative Information” form can be found at the Commission’s website at www.psc.sc.gov/reference/forms.asp; this form shall be utilized for the provision of this information to the Commission and ORS. Further, the Company shall promptly notify the Commission and ORS in writing if the representatives are replaced.

12. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

13. The Company requested a waiver of 10 Code Ann. Regs. 103-610 (Supp. 2015), which requires that records required by the Commission’s Rules and Regulations be maintained in South Carolina. The Commission finds the Company’s requested waiver reasonable and understands the potential difficulty presented to the Company should the waiver not be granted. The Commission therefore grants the requested waiver. However, the Company shall make available its books and records at all reasonable times upon

request by ORS, and the Company shall promptly notify the Commission and ORS if the location of its books and records changes. Further, the Commission acknowledges that the Company shall maintain its financial records in conformance with GAAP.

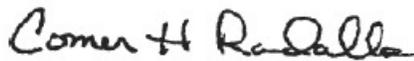
14. This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:



Swain E. Whitfield, Chairman

ATTEST:



Comer H. Randall, Vice Chairman