

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298**FILED**Agenda ID # 16662  
07/06/18  
10:45 AM  
Ratesetting

July 6, 2018

## TO PARTIES OF RECORD IN APPLICATION 17-12-007:

This is the proposed decision of Administrative Law Judge Jungreis. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's August 9, 2018 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, ex parte communications are prohibited pursuant to Rule 8.3(c)(4)(B).

/s/ MICHELLE COOKE for  
Anne E. Simon  
Chief Administrative Law Judge

AES/mpb

Attachment

Decision PROPOSED DECISION OF ALJ JUNGREIS (Mailed on 7/6/2018)

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of GALAXENET LLC for a Certificate of Public Convenience and Necessity in Order to Provide Resold and Limited Facilities Based Competitive Local Exchange and Interexchange Service in the State of California.

Application 17-12-007

**DECISION GRANTING MOTION TO WITHDRAW WITH CONDITIONS****Summary**

On December 5, 2017, Galaxenet, LLC filed an Application seeking a Certification of Public Convenience and Necessity in order to provide resold and limited facilities-based competitive local exchange and interexchange services. Despite multiple efforts, the Applicant has failed to file an Application that complies with procedural and substantive Public Utilities Commission Rules. The Applicant has now moved to withdraw its Application. That motion is granted, without prejudice, with the condition that this Application and Decision must be disclosed pursuant to any subsequent application to provide telecommunications services in California brought by this Applicant and/or any of its current directors, officers, or owners of more than 10% of its outstanding shares. This proceeding is closed.

**1. Background**

On December 5, 2017, Galaxenet, LLC (Galaxenet) filed an Application seeking a Certification of Public Convenience and Necessity (CPCN) in order to provide resold and limited facilities-based competitive local exchange and interexchange services. There were no opposing parties.

Galaxenet's Application failed to comply with Public Utilities Commission Rules, in that it contained a large number of significant defects, both procedural and substantive. On February 14, 2018, the Commission issued a Ruling identifying many of the initial Application's significant procedural and substantive defects, and directing Galaxenet to file a compliant Amended Application within 30 days of the Ruling. Subsequently, Galaxenet sought on multiple occasions to file a revised Application, and then an Amended Application. Those efforts were rejected by the Commission's Docket Office for a series of procedural filing errors. Galaxenet also seemingly sought to "file" the revised Application and the Amended Application with the Administrative Law Judge (ALJ); those too were rejected as improper filing efforts.

On May 31, 2018, a Prehearing Conference (PHC) was held. At that PHC, Galaxenet stated that it would file a motion to withdraw its Application. On June 4, 2018, Galaxenet successfully filed a motion to withdraw its Application.

No Scoping Memo is required as the Application was withdrawn prior to time for preparation of a Scoping Memo.

**2. Jurisdiction**

Jurisdiction for Galaxenet's Application is found under Rule 3.1.

Jurisdiction for Galaxenet's motion to withdraw is found under Rule 11.1.

**3. Issues Before the Commission; Discussion**

The issue before the Commission is whether to grant Galaxenet's motion to withdraw, and if so, whether any conditions should attach, and what those conditions should be.

Galaxenet seeks its motion to withdraw to be granted without prejudice. We agree that Galaxenet's procedural and substantive errors may not have been fatal and may have been curable with diligent prosecution of its Application. Therefore, we will grant the motion to withdraw without prejudice.

Galaxenet's motion to withdraw is silent as to any conditions other than as to the issue of prejudice. We note that the Commission has often granted applicants' motions to withdraw with the condition that future applications brought by the same applicant, or brought by any of the applicant's current directors, officers, or owners of more than 10% of its outstanding shares, are required to reference in their future application their prior application and the decision granting the motion to withdraw their prior application. In this instance, due to the benefit to the Commission to know of this history in the event that a future application is brought, this condition is appropriate.

**4. Conclusion**

The Commission will grant the motion to withdraw without prejudice. That grant is conditioned such that future applications brought by the same applicant, or brought by any of the applicant's current directors, officers, or owners of more than 10% of its outstanding shares, must reference Application (A.)17-12-007 and this Decision granting the motion to withdraw in any future applications that they, together or separately, make to the Commission for authorization to provide telecommunication services in California.

**5. Categorization and Need for Hearing**

The Application's category is ratesetting (in accordance with Resolution ALJ 176-3410). There will be no need for evidentiary hearing.

**6. Comments on Proposed Decision**

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on \_\_\_\_\_, and reply comments were filed on \_\_\_\_\_ by \_\_\_\_\_.

**7. Assignment of Proceeding**

Liane Randolph is the assigned Commissioner and Jason Jungreis is the assigned ALJ in this proceeding.

**Findings of Fact**

1. On December 5, 2017, Galaxenet, LLC (Galaxenet) filed an Application seeking a Certification of Public Convenience and Necessity in order to provide resold and limited facilities-based competitive local exchange and interexchange services. There were no opposing parties.

2. Galaxenet's Application failed to comply with procedural and substantive Public Utilities Commission Rules, in that it contained a large number of significant defects, both procedural and substantive.

3. On February 14, 2018, the Commission issued a Ruling identifying many of the initial Application's significant procedural and substantive defects, and directing Galaxenet to file a compliant Amended Application within 30 days of the Ruling.

4. Subsequent to the February 14, 2018 Ruling, Galaxenet sought on multiple occasions to file a revised Application, and then an Amended Application.

Those efforts were rejected by the Commission's Docket Office for a series of procedural filing errors. Galaxenet also seemingly sought to "file" the revised Application and the Amended Application with the Administrative Law Judge: those too were rejected as improper filing efforts.

5. On May 31, 2018, a PHC was held. At that PHC, Galaxenet stated that it would file a motion to withdraw its Application. On June 4, 2018, Galaxenet successfully filed a motion to withdraw its Application. Galaxenet sought its motion to withdraw to be granted without prejudice.

### **Conclusions of Law**

1. Applicant Galaxenet's motion to withdraw should be granted without prejudice, subject to conditions.
2. Applicant Galaxenet's motion to withdraw should be granted with the condition that future applications brought by the same Applicant, or brought by any of the Applicant's current directors, officers, or owners of more than 10% of its outstanding shares, together or separately, made to the Commission for authorization to provide telecommunication services in California, must reference A. 17-12-007 and this Decision granting the motion to withdraw.

### **O R D E R**

#### **IT IS ORDERED** that:

1. Applicant Galaxenet LLC's motion to withdraw its Application is granted without prejudice, subject to the conditions in Ordering Paragraph 2.
2. Galaxenet LLC, and/or any of its current directors, officers, or owners of more than 10% of its outstanding shares, must reference A. 17-12-007 and this Decision granting the motion to withdraw in any future applications that they,

**PROPOSED DECISION**

together or separately, make to the Commission for authorization to provide telecommunication services in California.

3. The preliminary determination of a need for hearing is changed from yes to no.

4. Application 17-12-007 is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.