

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

Fones4All Corporation (U6338C),

Complainant,

vs.

Pacific Bell Telephone Company,  
d/b/a AT&T California (U1001C),

Defendant.

Case 07-12-030  
(Filed December 28, 2007)

And Related Matter.

Case 08-02-009

**ORDER EXTENDING STATUTORY DEADLINE**

Pub. Util. Code § 1701.2(d) provides that adjudicatory cases shall be resolved within 12 months of the date that they are initiated unless the Commission makes findings as to why that deadline cannot be met and issues an order extending that deadline. This consolidated matter has been categorized as adjudicatory, and the 12-month deadline for resolving this proceeding was February 8, 2009. In Decision (D.) 09-01-028, the Commission extended the deadline 180 days until August 8, 2009. In D.09-08-016 and D.09-11-022, the Commission twice further extended the deadline an additional 180 days until February 3, and August 2, 2010, respectively. In D.10-07-010, the Commission extended the statutory deadline until August 2, 2011. In D.11-07-054, the Commission extended the statutory deadline until December 2, 2011. In

D.11-11-015 the Commission extended the statutory deadline until December 2, 2012.

In August 2008, Fones4All Corporation (Fones4All) filed for bankruptcy protection. Fones4All's bankruptcy filing automatically stayed, by operation of law, Case 08-02-009, which sets forth certain Pacific Bell Telephone Company counterclaims against Fones4All. The interconnectedness between the parties' claims against each other makes proceeding with Fones4All's complaint against AT&T California untenable while AT&T California's counterclaims are stayed.

In addition, Fones4All and AT&T California have asserted that there is a likelihood that the bankruptcy process might result in resolution of both parties' respective claims against the other. Consequently, at the joint request of the parties, the assigned Administrative Law Judge (ALJ) issued a ruling dated January 13, 2009 that stayed Fones4All's complaint against AT&T California pending the outcome of Fones4All's bankruptcy proceeding.

By an ALJ Ruling dated July 19, 2012, inquiry was made as to the status of the bankruptcy proceeding and whether these matters could be dismissed. By a July 26, 2012 joint response of the Chapter 7 Trustee for Fones4All and Pacific Bell, the parties indicated that the Fones4All bankruptcy proceeding is still on-going and the Pacific Bell counterclaim remains stayed as a matter of law. The parties continue to urge that the stay of both continue. They maintain their expectation that the bankruptcy proceeding may result in a global settlement of both claims.

As of this date, Fones4All's bankruptcy proceeding is still pending, and it is uncertain when the matter will be concluded. Moreover, there is no indication that the bankruptcy proceeding will be concluded by December 2, 2012. Consequently, an extension of the statutory deadline is reasonable to

accommodate the stay granted these consolidated complaints until the resolution of Fones4All's bankruptcy case and the issuance of the presiding officer's decision on any unresolved issues.

### **Waiver of Comment Period**

Under Rule 14.6(c)(4) of the Commission's Rules of Practice and Procedure (Rules), the Commission may reduce or waive the period for public review and comment of decisions extending the deadline for resolving adjudicatory proceedings. Accordingly, pursuant to Rule 14.6(c)(4), the otherwise applicable period for public review and comment is waived.

### **Assignment of Proceeding**

Timothy Alan Simon is the assigned Commissioner and Richard W. Clark is the assigned ALJ in this proceeding.

### **Findings of Fact**

1. This consolidated proceeding was initiated on February 8, 2008.
2. Fones4All, which is the complainant in the first of the consolidated proceedings and the defendant in the second, filed for bankruptcy protection in August 2008.
3. Based upon the statutory deadline, this proceeding must be resolved within 12 months of its initiation unless this date is extended.
4. In January 2009, the assigned ALJ issued a ruling holding the consolidated matter in abeyance until Fones4All's bankruptcy case is resolved.
5. In D.09-01-028, the Commission extended the statutory deadline 180 days until August 8, 2009.
6. In D.09-08-016 and D.09-11-022, the Commission twice further extended the statutory deadline another 180 days until February 3, and August 2, 2010, respectively.

7. In D.10-07-010, the Commission extended the statutory deadline until August 2, 2011.

8. In D.11-07-054, the Commission extended the statutory deadline until December 2, 2011.

9. In D. 11-11-015 the Commission extended the statutory deadline until December 2, 2012.

10. In a July 26, 2012 joint response to a July 19, 2012 ALJ Ruling, the Chapter 7 Trustee for Fones4All and Pacific Bell indicated that the Fones4All bankruptcy proceeding is still ongoing and the Pacific Bell counterclaim remains stayed as a matter of law.

11. A further extension of the 12-month deadline is necessary because it is unlikely that the pending bankruptcy proceeding will be resolved by December 2, 2012, and the remaining issues are complex.

**Conclusions of Law**

1. The 12-month statutory deadline imposed by Pub. Util. § 1701.2(d) should be extended until December 2, 2013, to accommodate the stay granted these consolidated complaints until the resolution of Fones4All's bankruptcy case and the issuance of the presiding officer's decision on any unresolved issues in this proceeding.

2. This matter should be effective immediately.

**IT IS ORDERED** that the statutory deadline in this proceeding, December 2, 2012, is further extended one year until December 2, 2013.

This order is effective today.

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

MICHAEL R. PEEVEY

President

TIMOTHY ALAN SIMON

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

MARK J. FERRON

Commissioners