

Decision 12-11-010 November 8, 2012

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's Own Motion into the Operations and Practices of Southern California Edison Company, Cellco Partnership LLP d/b/a Verizon Wireless, Sprint Communications Company LP, NextG Networks of California, Inc. and Pacific Bell Telephone Company d/b/a AT&T California and AT&T Mobility LLC, Regarding the Utility Facilities and the Canyon Fire in Malibu of October 2007.

Investigation 09-01-018
(Filed January 29, 2009)

ORDER EXTENDING STATUTORY DEADLINE

Summary

The statutory deadline for resolving this proceeding is extended to February 28, 2014, pursuant to Pub. Util. Code § 1701.2(d).

Background

The Commission initiated this proceeding on January 29, 2009, with the issuance of the above-titled Order Instituting Investigation. This proceeding has been categorized as adjudicatory.

Pub. Util. Code § 1701.2(d) provides that adjudicatory cases shall be resolved within 12 months of the date they are initiated. Thus, the statutory deadline for resolving this proceeding was 12 months from the date it was initiated on January 29, 2009. Pub. Util. Code § 1701.2(d) also provides that the Commission can issue an order extending the deadline. Any such order must contain findings as to why the deadline cannot be met.

The Assigned Commissioner's Ruling and Scoping Memo (scoping memo) issued on October 22, 2009, scheduled evidentiary hearings from August 16, 2010 through September 10, 2010. Consequently, this proceeding could not be resolved by the statutory deadline of January 29, 2010, and the deadline was extended to January 31, 2011, by Decision (D.) 09-12-009.

After the issuance of D.09-12-009, the proceeding schedule set forth in the scoping memo was lengthened at the request of certain parties. As a result, the statutory deadline was extended to February 5, 2012, by D.10-12-041.

Following the issuance of D.10-12-041, there were several rounds of written testimony and related discovery that were not anticipated by D.10-12-041. A second prehearing conference was held on October 26, 2011, and a second scoping memo was issued on November 23, 2011. The second scoping memo scheduled five weeks of evidentiary hearings beginning March 5, 2012, which extended past the statutory deadline of February 5, 2012, established by D.10-12-041. As a result, the statutory deadline was extended to December 24, 2012, by D.12-01-022.

On February 3, 2012, the Commission's Consumer Protection and Safety Division reached a settlement agreement with three of the five Respondents to the instant proceeding. The evidentiary hearings that were set to begin on March 5, 2012, were suspended. A proposed decision that conditionally adopted the settlement agreement was mailed on May 18, 2012, for consideration at the Commission meeting on June 21, 2012. The proposed decision was then held to the Commission meeting on September 13, 2012, where the Commission issued D.12-09-019 approving the settlement agreement with certain conditions.

D.12-09-019 resolved all issues in this proceeding with respect to three of the five Respondents, but left this proceeding open to address and litigate issues

with respect to two of the Respondents, NextG Networks of California, Inc., and Southern California Edison Company. This will require evidentiary hearings to be scheduled and held. Additional time will be needed for (a) briefs and reply briefs; (b) the preparation and issuance of a presiding officer's decision (POD); (c) an opportunity for a party to appeal the POD pursuant to Rule 14.4(a) of the Commission's Rules of Practice and Procedure (Rule); and (d) an opportunity for any concerned Commissioner to request a review of the POD pursuant to Rule 14.4(b).

In light of the status of this proceeding, and in an abundance of caution, it is reasonable and necessary to extend the current statutory deadline to February 28, 2014, pursuant to Pub. Util. Code § 1701.2(d).

Waiver of Comment Period

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

Assignment of Proceeding

Timothy Alan Simon is the assigned Commissioner and Timothy Kenney is the assigned Administrative Law Judge and presiding officer for this proceeding.

Findings of Fact

1. This proceeding was initiated on January 29, 2009.
2. The original 12-month statutory deadline for resolving this proceeding was extended by D.09-12-009, D.10-12-041, and D.12-01-022 pursuant to Pub. Util. Code § 1701.2(d). The current statutory deadline is December 24, 2012.

3. An extension of the current statutory deadline is necessary to provide sufficient time for (a) evidentiary hearings; (b) briefs and reply briefs; (c) the preparation and issuance of a POD; (d) an opportunity for parties to appeal the POD; and (e) an opportunity for each Commissioner to request a review of the POD.

Conclusions of Law

1. The 12-month statutory deadline for resolving this proceeding, as extended by D.09-12-009, D.10-12-041, and D.12-01-022, should be extended to February 28, 2014, pursuant to Pub. Util. Code § 1701.2(d).

2. The following order should be effective immediately.

IT IS ORDERED that the statutory deadline for this proceeding is extended to February 28, 2014.

This order is effective today.

Dated November 8, 2012, at San Francisco, California.

MICHAEL R. PEEVEY
President
TIMOTHY ALAN SIMON
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
MARK J. FERRON
Commissioners