

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

<p>VAYA Telecom, Inc. (U7122C),</p> <p style="text-align: center;">Complainant,</p> <p style="text-align: center;">vs.</p> <p>Pacific Bell Telephone Company d/b/a AT&T California (U1001C),</p> <p style="text-align: center;">Defendant.</p> <hr/> <p>And Related Matter.</p>

Case 10-12-001
(Filed December 3, 2010 and
Amended on
January 18, 2011)

Case 11-02-015

ORDER EXTENDING STATUTORY DEADLINE

Summary

This decision extends the statutory deadline in these consolidated proceedings to December 18, 2013.

Background

Public Utilities Code Section 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. These consolidated matters have been categorized as adjudicatory, and the 12-month deadline for resolving these proceedings is June 18, 2013.

On December 13, 2010, VAYA Telecom, Inc. (VAYA) filed Case (C.) 10-12-001, seeking that the Commission resolve the dispute with Pacific Bell Telephone Company d/b/a AT&T California (AT&T), regarding the Interconnection Agreement (the Agreement or ICA) they have entered into which established, among other things, the terms and conditions pursuant to which VAYA and AT&T interconnect their networks for the purpose of exchanging telecommunications traffic with each other pursuant to Section 251(c)(2) of the Act.¹ On January 18, 2011, VAYA filed an Amended Complaint to incorporate an unresolved dispute concerning AT&T's billing of tandem switching elements of its interstate switched access tariff for certain transit traffic, including Voice over Internet Protocol (VoIP) traffic.

On February 17, 2011, AT&T filed C.11-02-015 against VAYA requesting that the Commission find that VAYA has breached the parties' ICA by delivering to AT&T California InterLATA traffic over Local Interconnection Trunks.

Various motions and law & motion disputes have been filed and on March 29, 2011, a Ruling was issued in C.10-12-001 addressing these motions and approving the Confidential Interim Settlement Agreement between the parties. Despite the efforts of the parties and the Commission, there were several delays in meeting terms of the Confidential Settlement. These delays were outside the parties' control. A Prehearing Conference was held on April 26, 2011, and both complaints were consolidated. On December 5, 2011, a scoping ruling was issued. During the pendency of this case, legislation on VoIP-enabled communications service was under consideration by the California Legislature.

¹ "Act" means the Communications Act of 1934, 47 U.S.C 153 et seq., as amended by the Telecommunications Act of 1996.

Until final legislation was adopted, it was unclear if the issues of VoIP traffic raised by VAYA in the complaint would be affected by the pending legislation. Senate Bill (SB) 1161 regarding VoIP-enabled communications service was ultimately adopted on September 28, 2012. We now find SB 1161 is not determinative of the issues raised in the complaint.

A Presiding Officer's Decision is being drafted and is expected to be completed by June 2013, however, an extension of the statutory deadline is reasonable to allow the Commission to issue a Presiding Officer's Decision (POD) to address any requests for review or appeals of the POD, and to permit the Commission to render its final decision.

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, the otherwise applicable period for public review is being waived.

Assignment of Proceeding

Catherine J.K. Sandoval is the assigned Commissioner and Katherine MacDonald is the assigned Administrative Law Judge in these proceedings.

Findings of Fact

1. Case 10-12-001 was initiated on December 3, 2010, and later amended on January 18, 2011.
2. Case 11-02-015 was initiated on February 17, 2011.
3. Based upon the statutory deadline, these proceedings must be resolved within 12 months of their initiation, unless this date is extended.

4. An extension of the 12-month deadline is necessary to allow the Commission to hold hearings on this matter, to issue a POD, to address any requests for review or appeals of the POD, and to permit the Commission to render its final decision.

Conclusions of Law

1. The 12-month statutory deadline imposed by Public Utilities Code Section 1701.2(d) should be extended until December 18, 2013.
2. This order should be effective immediately.

IT IS ORDERED that the 12-month statutory deadline in these consolidated proceedings is extended until December 18, 2013.

This order is effective today.

Dated _____, at San Francisco, California.