

Decision \_\_\_\_\_

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

XO Communications Service, LLC (U5553C)

Complainant,

v.

Vaya Telecom, Inc. (U7122C) and DOES 1-100

Defendant.

Case 12-12-018  
(Filed December 21, 2012)

**DECISION GRANTING MOTION TO WITHDRAW**

**Summary**

This decision grants XO Communications Services, LLC (XO) unopposed motion to dismiss with prejudice its complaint against Vaya Telecom, Inc. with prejudice. XO and Vaya resolved the issues raised by the complaint to their mutual satisfaction. No hearings were conducted.

**Background**

On December 12, 2012, XO Communications Services, LLC (XO) complained that Vaya was required to pay intrastate switched access termination charges for intrastate toll calls pursuant to XO's intrastate switched access tariff, which has been on file with the California Public Utilities Commission (Commission) since 1997.

Subsequent to filing the complaint, XO requested that the assigned Administrative Law Judge suspend the procedural schedule in the matter to allow the parties sufficient time to conclude a settlement of the issues raised in

the complaint. On December 12, 2013, XO moved to dismiss the matter because a settlement had been reached with Vaya.

### **Discussion**

The motion to dismiss with prejudice is granted. The motion is unopposed and no evidentiary hearings have been conducted. Dismissing the complaint at this time will conserve both the parties' and the Commission's resources.

This is uncontested.

### **Categorization and Need for Hearing**

The Instructions to Answer filed on December 15, 2013, categorized this complaint as adjudicatory as defined in Rule 1.3(a) and anticipated that this proceeding would require evidentiary hearings. Due to the unopposed motion to withdraw the complaint after settlement of the matter, this complaint should be dismissed and the evidentiary hearings determination is changed to state that no evidentiary hearings are necessary.

### **Waiver of Comment Period**

Pursuant to Rule 14.6(b) of the Commission's Rules of Practice and Procedure, all parties stipulated to waive the 30-day public review and comment period required by Section 311 of the Public Utilities Code and the opportunity to file comments on the proposed decision. Accordingly, this matter was placed on the Commission's agenda directly for prompt action.

### **Assignment of Proceeding**

Catherine J.K. Sandoval is the assigned Commissioner and Katherine Kwan MacDonald is the assigned Administrative Law Judge in this proceeding.

### **Findings of Fact**

1. XO filed this complaint seeking an order that Vaya was required to pay intrastate switched access termination charges for intrastate toll calls pursuant to

XO's intrastate switched access tariff, which has been on file with the Commission since 1997.

2. XO and Vaya came to a mutually agreeable resolution of the matter.
3. An evidentiary hearing was not held in this matter.
4. Dismissing the application at this time will conserve both the parties' and the Commission's resources.

**Conclusion of Law**

1. Hearings are not necessary.
2. Complaint 12-12-018 should be dismissed with prejudice and docket closed, effective immediately.

**O R D E R**

**IT IS ORDERED** that:

1. Complaint 12-12-018 is dismissed with prejudice.
2. The hearing determination is changed to no hearings necessary.
3. Complaint 12-12-018 is closed.

This order is effective today.

Dated February 7, 2014, at San Francisco, California.