

Decision 14-08-048 August 28, 2014

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

Vaya Telecom, Inc. (U7122C),

Complainant,

vs.

North County Communications Corporation  
(U5631C),

Defendant.

Case 12-09-006  
(Filed September 6, 2012)

**ORDER EXTENDING STATUTORY DEADLINE**

**Summary**

This decision extends the statutory deadline in this proceeding to September 5, 2015.

**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. This matter has been categorized as adjudicatory. On August 15, 2013, the Commission issued Decision (D.) 13-08-015 extending the 12-month statutory deadline for resolving this proceeding to September 5, 2014.

On September 6, 2012, VAYA Telecom, Inc. (Vaya) filed complaint Case (C.) 12-09-006, seeking that the Commission resolve the dispute with North

County Communications Corporation (U5631C) (North County) regarding the proper compensation scheme for exchanging telecommunications traffic with each other. Vaya contends that it properly paid North County reciprocal compensation for traffic terminated by North County. North County claims that Vaya must pay the higher inter-carrier compensation rate owed to North County for such traffic pursuant to an intrastate access tariff on file with this Commission.

Prior to answering the Complaint, North County filed motions that require the Commission determine whether to dismiss the matter or alternatively stay the matter. On October 22, 2012, North County moved to dismiss the Complaint. On the same date, North County also requested leave to late-file its answer. North County answered the Complaint on October 22, 2012, in compliance with the extension of time granted by the assigned Administrative Law Judge (Judge). On November 9, 2012, North County moved to stay the proceeding if the Commission denied its Motion to Dismiss. On October 29, 2012, Vaya responded to North County's Motion to Dismiss. Vaya responded to North County's Alternative Motion to Stay on November 29, 2012.

The parties to this complaint are also litigating these issues in the Superior Court of California. The Superior Court case was initiated prior to the instant Complaint. The Judge suspended the matter to allow the Superior Court of California to determine whether it was retaining jurisdiction over litigation of the same or similar issues raised by the instant complaint. On October 18, 2013, the Judge issued a ruling denying motion for partial summary disposition, and staying complaint pending resolution of the related Superior Court Complaint. This ruling also denied Vaya's motion for expedited treatment of concurrently

filed motion to enforce D.12-06-024 and for partial summary disposition of Vaya's fourth cause of action.

Subsequently, on July 15, 2014, Judge Hayes of the Superior Court of California issued a ruling finding that North County had engaged in access stimulation as defined by the Federal Communications Commission.

An extension of the statutory deadline is reasonable to allow the Commission to more fully evaluate what actions the Commission should take as a result of the Superior Court's finding that North County was engaged in access stimulation. An extension is also necessary to allow the Commission to more fully determine how to proceed with the instant complaint and to issue a Presiding Officer's Decision (POD), to address any request for review or appeal 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 Judge in this proceeding.

#### **Findings of Fact**

1. The complaint C.12-09-006 was initiated on September 6, 2012.
2. The parties to this Complaint are also currently litigating the same or similar issues in the Superior Court of California.
3. The Commission denied North County's Motion to Dismiss the Complaint.

4. On October 18, 2013, the Commission suspended the procedural schedule and granted North County's alternative Motion to Stay.

5. On July 15, 2014, the Superior Court of California ruled that North County had engaged in access stimulation.

6. Based upon the statutory deadline, these proceedings must be resolved within 12 months of their initiation, unless this date is extended.

7. An extension of the 12-month deadline is necessary to allow the Commission to resolve the issues pending before it, hold hearings on this matter, to issue a POD, to address any request 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 September 5, 2015.

2. This order should be effective immediately.

**IT IS ORDERED** that the 12-month statutory deadline in this proceeding is extended to September 5, 2015.

This order is effective immediately.

Dated August 28, 2014 at San Francisco, California.

MICHAEL R. PEEVEY  
President  
MICHEL PETER FLORIO  
CATHERINE J.K. SANDOVAL  
CARLA J. PETERMAN  
MICHAEL PICKER  
Commissioners