

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DC Universal, LLC,

Complainant,

vs.

California-American Water Company
(U210W),

Defendant.

Case 16-07-012
(Filed July 14, 2016)

ORDER EXTENDING STATUTORY DEADLINE

Summary

This decision extends the statutory deadline in this proceeding to February 14, 2018.

1. Background

Public Utilities Code § 1701.2(i) provides that adjudicatory cases, such as this Complaint, shall be resolved within 12 months of initiation unless the commission makes findings why that deadline cannot be met and issues an order extending the 12-month deadline. In this proceeding, the 12-month deadline for resolving the case is July 14, 2017. By this decision we find that this proceeding cannot be resolved by July 14, 2017, and thus extend the deadline to February 14, 2018.

DC Universal, LLC (Complainant) filed this Complaint (C.) 16-07-012 on July 14, 2016, alleging that California-American Water Company (Defendant) improperly billed the Complainant for water-not-served to Complainant, for a period of about 11 years. The Complainant seeks an order from the Commission directing the Defendant to: (1) refund all billed amounts for the time period April 10, 2012 to April 10, 2015 for the water-not-served; and (2) instruct credit reporting agencies to clear Complainant's credit accounts with no negative connotations.

On August 29, 2016, the Defendant filed an Answer to the Complaint, requesting that the Complaint be dismissed as lacking merit, while contending that no refund is due to the Complainant.

Prehearing Conference (PHC) was held on September 27, 2016, and the Assigned Commissioner's Scoping Memo and Ruling (Scoping Memo) was issued on October 5, 2016. The Scoping Memo: (1) designated Administrative Law Judge (ALJ) Adeniyi A. Ayoade as presiding officer in this proceeding pursuant to Rule 7.3 of the Rules of Practice and Procedure (Rules)¹; (2) set the evidentiary hearing in this matter for December 1, 2016; and (3) set other procedural dates including dates for the Opening Testimony, Rebuttal Testimony, Opening Briefs and Reply Briefs.

The parties timely submitted their Opening and Reply Testimony, as directed by the Scoping Memo.

¹ References to "Rule" or Rules are to the California Public Utilities Commission, Rules of Practice and Procedure.

A. Various Requests to Continue Evidentiary Hearing

On November 28, 2016, the parties filed their first joint request to continue the December 1, 2016 evidentiary hearing (EH) and to reset other procedural dates set in the Scoping Memo, in order to afford the parties time to engage in settlement discussion through the Commission's voluntary Alternative Dispute Resolution (ADR) program. Finding good cause, the ALJ granted the parties' request, continued the EH to February 1, 2017, and reset other procedural dates.

On January 30, 2017, the parties submitted their second joint request to continue the EH due to productive ongoing settlement negotiations. The ALJ found that good cause existed, parties' second request to continue the EH was granted, and the EH was continued to May 5, 2017.

On April 27, 2017, the parties submitted a third joint request to continue the EH, again, due to ongoing settlement negotiations, which both parties agree will lead to a settlement if given additional time. Accordingly, the parties have requested, jointly, that the May 5, 2017 EH date, as well as other procedural dates currently set in this matter, be continued for four months (end of August 2017), in order to afford the parties sufficient time to reach and finalize a settlement in this case. The parties' third joint request was evaluated for good cause, and good cause established, the requested continuance of the EH for four months was granted on April 28, 2017.

B. Statutory Deadline and Discussion

Pursuant to § 1701.2(i), this adjudicatory case must be resolved within 12 months of the initiation/filing of the proceeding, unless the commission makes such findings why the 12 months deadline cannot be met and issues an

order extending the 12-month deadline. In this proceeding, the 12-month deadline for resolving the case is July 14, 2017.

Based on the record of this proceeding, the parties have jointly requested, and have been granted, two continuances of the EH previously, and for good cause a third request to continue the EH was granted on April 28, 2017, for four months. However, by granting the parties their third joint request to continue the EH (through the end of August 2017), a total of about eight months of continuance would have been granted, and this proceeding can no longer be resolved by July 14, 2017 or “within 12 months of initiation” as required by law.

Accordingly, it is necessary and appropriate to extend the 12-month deadline in this case for an additional seven (7) months, until February 14, 2018, pursuant to § 1701.2(i).

Extending the statutory deadline to February 14, 2018, will enable the parties needed time to complete their settlement negotiations, and/or finalize a proposed settlement for filing with the Commission. Additionally, once a proposed settlement is filed with the commission, the Commission will require additional time in order to evaluate the propose settlement, determine its appropriateness, and/or approve the settlement pursuant to Rule 12.1. Further, additional time may be needed by the Commission, in order to conduct a hearing if the proposed settlement is not acceptable to the Commission, or certain issues remained unresolved. Accordingly, the extension is necessary needed, appropriate, and should be granted.

2. Waiver of Comment Period

Under Rule 14.6(c)(4), the Commission may waive the otherwise applicable 30-day period for public review and comment on a decision that extends the 12-month deadline set forth in § 1701.2(i). Under the circumstances

of this case, it is appropriate to waive the 30-day period for public review and comment.

3. Assignment of Proceeding

Clifford Rechtschaffen is the assigned Commissioner and Adeniyi

A. Ayoadé is the assigned ALJ in this proceeding.

Findings of Fact

1. The complaint in this case was filed on July 14, 2016.
2. The 12-month deadline for the resolution of this case is July 14, 2017.
3. The parties have jointly requested, and have been granted three continuances of the evidentiary hearing for a total of about eight months of continuances.
4. This proceeding cannot be resolved by July 14, 2017, within 12 months of initiation, as required by § 1701.2(i).
5. An extension of time until February 14, 2018 should allow adequate time: (a) for the parties to finalized settlement negotiations and file a settlement for approval; (b) for the Commission to review/clarify/approve the proposed settlement; (c) for the ALJ to hold any hearing that may be necessary, and draft a presiding officer's decision (POD); and (d) for an appeal or review of the POD pursuant to Rule 14.4(a) or (b).

Conclusions of Law

1. It is not possible to resolve this case within the 12-month period provided for in § 1701.2(i).

2. The 12-month statutory deadline should be extended for 7 months to allow for resolution of this proceeding.

3. Today's order should be made effective immediately.

IT IS ORDERED that the 12-month statutory deadline in this proceeding is extended to February 14, 2018.

This order is effective today.

Dated _____, at San Francisco, California.