

Decision \_\_\_\_\_

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

City of Huntington Beach,

Complainant,

vs.

NextG Networks of California, Inc. (U6745C),

Defendant.

Case 08-04-037  
(Filed April 23, 2008)

**ORDER EXTENDING STATUTORY DEADLINE**

**Summary**

Public Utilities Code Section 1701.2(d) provides that adjudicatory cases, such as this one, shall be resolved within 12 months of initiation unless the Commission makes findings why that deadline cannot be met and issues an order extending that deadline. In this proceeding, the 12-month deadline for resolving the complaint is April 23, 2009. This order extends the 12-month deadline to April 23, 2010.

**Background**

This proceeding involves a complaint filed by the City of Huntington Beach (City) against NextG Networks of California, Inc. (NextG). The complaint alleges, among other things, that NextG has violated the California Environmental Quality Act (CEQA) by proceeding with a project within City limits without undergoing additional environmental review and has failed to

comply with City's undergrounding ordinance. The complaint also requests a finding by the Commission that NextG is not a telephone corporation entitled to use the public rights of way for its operations under Public Utilities Code Section 7901.<sup>1</sup> After the filing of the complaint, NextG filed a motion to dismiss. In November 2008, the assigned Commissioner and assigned Administrative Law Judge (ALJ) issued a joint ruling which denied NextG's motion to dismiss, except for the third cause of action, which alleged that NextG is not a telephone corporation under Section 7901.

Pursuant to subsequent orders of the assigned ALJ, the parties have met and conferred in an effort to resolve the remaining issues in the complaint. The parties have filed a proposed stipulation, but additional time is needed to adjudicate and complete this proceeding, due to complicated procedural issues and NextG's agreement to file a new application for the project and to request additional CEQA review by the Commission.

### **Discussion**

Based on the current status of the case, this proceeding cannot be completed by April 23, 2009. An extension time for an additional 12 months is necessary for resolution of this matter.

### **Waiver of Comments**

Under Rule 14.6(c) of the Commission's Rules of Practice and Procedure, the Commission may reduce or waive the period for public review and comment of draft decisions extending the deadline for resolving adjudicatory proceedings. Accordingly, pursuant to Rule 77.7(f)(4), the otherwise applicable Public Utilities

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<sup>1</sup> All Code references are to the Public Utilities Code, unless otherwise stated.

Code Section 1701.2(d) statutory deadline for public review and comment is being waived.

**Findings of Fact**

1. This proceeding was initiated on April 23, 2008.
2. As ordered by the assigned Administrative Law Judge, the parties have met and conferred in an effort to resolve the issues in this proceeding and have filed a proposed stipulation.
3. Due to complicated procedural issues in this case and NextG's agreement to file a new application for the project and to request additional CEQA review by the Commission, additional time is needed to adjudicate and complete this proceeding.

**Conclusion of Law**

The 12-month statutory deadline imposed by Public Utilities Code Section 1701.2(d) should be extended until this proceeding is resolved.

**O R D E R**

**IT IS ORDERED** that the 12-month statutory deadline in this proceeding, April 23, 2009, is extended for an additional 12 months until April 23, 2010.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.