

Decision 09-12-011 December 3, 2009

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

XO Communications Services, Inc. (U5553C),

Complainant,

vs.

Fones4All Corporation (U6338C),

Defendant.

Case 08-06-018
(Filed June 16, 2008)

ORDER EXTENDING STATUTORY DEADLINE

Pub. Util. Code § 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, and the 12-month deadline for resolving this proceeding was June 16, 2009. By Decision (D.) 09-07-006, the statutory deadline was extended 180 days until December 16, 2009.

In the above-titled proceeding, XO Communications Services, Inc. alleges that Fones4All Corporation (Fones4All) owes it for the provision of switching and transport services during the period of time that Fones4All's customers were

necessarily migrated to two other carriers.¹ In August 2008, Fones4All filed for bankruptcy protection. Fones4All's bankruptcy filing automatically stayed this case, by operation of law.² An extension of the statutory deadline is reasonable to accommodate the automatic stay that exists until the resolution of Fones4All's bankruptcy case and the issuance of the presiding officer's decision on any unresolved issues in this and the associated consolidated cases.

Waiver of Comment Period

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

Assignment of Proceeding

Timothy Alan Simon is the assigned Commissioner and Jacqueline A. Reed is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. This proceeding was initiated on June 16, 2008.
2. Based upon the statutory deadline, this proceeding must be resolved within 12 months of its initiation, unless this date is extended.

¹ Pacific Bell Telephone Company, doing business as AT&T California and Telscape Communications, Inc.

² On August 24, 2009, this Commission issued a second extension decision in associated consolidated complaints Case (C.) 07-12-030 and C.08-02-009.

3. D.09-07-006 extended the statutory deadline 180 days until December 16, 2009.

4. A further extension of the 12-month deadline is necessary because as a result of Fones4All's bankruptcy case, this proceeding has been automatically stayed by operation of law.

Conclusions of Law

1. The 12-month statutory deadline imposed by Pub. Util. § 1701.2(d) should be further extended one hundred eighty (180) days to accommodate the automatic stay of this proceeding until the resolution of Fones4All's bankruptcy case and the issuance of the presiding officer's decision on any unresolved issues in this matter and the associated consolidated proceedings.

2. This matter should be effective immediately.

IT IS ORDERED that the 12-month statutory deadline in this proceeding is extended one hundred eighty (180) days, until June 15, 2010.

This order is effective immediately.

Dated December 3, 2009, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners