

Decision 10-12-046 December 16, 2010

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

City of Santa Barbara,

Complainant,

vs.

Verizon California, Inc. (U1002C),

Defendant.

Case 10-01-005
(Filed January 19, 2010)

ORDER EXTENDING STATUTORY DEADLINE

Summary

Pub. Util. Code § 1701.2(d) provides that adjudicatory cases, such as this one, shall be resolved within 12 months of initiation unless the Commission makes findings as to 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 January 19, 2011. However, additional time is necessary for the presiding officer's decision to be issued for the reasons stated below. Therefore, this order extends the time for completion of this proceeding until January 19, 2012.

No anticipated costs of this extension of time are foreseen.

Background

This case arises from a dispute concerning the interpretation of a tariff that governs the undergrounding of existing telephone communications facilities in circumstances where a city creates a new underground utility district.

Complainant, the City of Santa Barbara (City), filed this complaint on January 19, 2010, and Defendant, Verizon California, Inc. (Verizon), answered in due course.

Inasmuch as the pleadings appeared to present only a limited tariff interpretation issue, the assigned Administrative Law Judge (ALJ) convened a telephone conference call on May 10, 2010. The purpose of the call was to discuss whether the matter could be resolved under a mutually agreeable summary procedure that would obviate the need for a hearing.

One option discussed during the conference call was that of resolving the dispute by filing dispositive cross-motions in the nature of motions for summary judgment, based upon a stipulated set of undisputed facts. After conferring with one another, the parties subsequently informed the ALJ on May 14 by e-mail message that they had agreed to such a procedure. A June 28 e-mail from the parties further advised the ALJ that they had agreed to a briefing schedule under which the stipulated statement of undisputed facts was to be filed on July 9, 2010, followed by opening briefs on August 16 and responsive briefs on August 20.

The ALJ had informed the parties during the May 10 conference call that the progress of the proceeding would be delayed by his anticipated absence for medical reasons commencing on July 29, but that the matter would be submitted after the filing of the second round of briefs, and would be decided upon his return to work. The parties were amenable to this interruption. Moreover,

counsel for the City, a member of the City Attorney's staff, also advised that he would be furloughed after June 30 as a consequence of California's financial crisis, and that a new attorney would have to be assigned to the case.

The parties submitted briefs as scheduled, and the ALJ submitted the matter on October 11, 2010, but these events have significantly reduced the remaining time available to meet the statutory deadline.

Discussion

Based on the current status of the case, this proceeding cannot be completed by January 19, 2011. Therefore, an extension of time for an additional 12 months is necessary for resolution of this matter.

Waiver of Comments on Proposed Decision

Under Rule 14.6(c)(4) of the Commission's Rules of Practice and Procedure, 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 Pub. Util. Code § 1701.2(d). Under the circumstances of this case, it is appropriate to waive the 30-day period for public review and comment.

Assignment of Proceeding

Dian M. Grueneich is the assigned Commissioner and Victor D. Ryerson is the assigned ALJ and presiding officer in this proceeding.

Findings of Fact

1. The schedule for concluding this proceeding has been materially delayed by the extended absence of the ALJ for medical reasons, and by other events that occurred during his absence.
2. This proceeding cannot be completed by January 19, 2011.

Conclusions of Law

1. It is appropriate to extend the 12-month deadline set forth in Pub. Util. Code § 1701.2(d) and waive the 30-day period for review and comment of this order for the reasons set forth in the Findings of Fact.

2. The deadline should be extended for a period of 12 months in order to ensure timely issuance of the final order in this matter.

IT IS ORDERED that:

1. The time for completion of this proceeding is extended until January 19, 2012.

2. The 30-day period for review and comment on this order is waived.

This order is effective today.

Dated December 16, 2010, at San Francisco, California.

MICHAEL R. PEEVEY

President

DIAN M. GRUENEICH

JOHN A. BOHN

TIMOTHY ALAN SIMON

NANCY E. RYAN

Commissioners