

Decision 11-05-010 May 5, 2011

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's Own Motion into the Billing Practices and Conduct of Legacy Long Distance International, Inc. (Legacy) to Determine if Legacy Violated the Law, Rules, and Regulations Governing the Manner in which California Consumers are Billed for Phone Services.

Investigation 10-06-013
(Filed June 24, 2010)

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 June 24, 2011. This order extends the 12-month deadline to June 24, 2012.

Background

On June 24, 2010 the Commission opened this investigation to "determine whether Legacy Long Distance International, Inc. (Legacy) violated"¹ specified provisions of the Public Utilities Code and issued an order to show cause "as to

¹ Order Instituting Investigation (OII) 10-06-013 at 1.

why the Commission should not find violations in this matter, and why the Commission should not impose penalties, and or any other forms of relief, if any violations are found.”² Attachment B to the OII was the Consumer Protection and Safety Division’s *Investigative Report on Legacy Long Distance International, Inc.*, which contained allegations of violations of specific sections of the Public Utilities Code and Commission Rules.

A prehearing conference (PHC) was held on August 23, 2010 which adopted a schedule consistent with the 12-month deadline that applies to adjudicatory proceedings.

Ordering Paragraph (OP) 2 of the OII required Legacy to provide to the Consumer Protection and Safety Division (CPSD) responses to alleged violations of specific sections of the Public Utilities Code within 30 days of the OII’s issuance, which was July 7, 2010. The responses were to include “references to supporting documents [title of document, author, recipients, and date]” and answers to a data request that was Attachment A of the OII.

On July 14, 2010, Legacy wrote to the Executive Director of the Commission asking for an extension of time for responding.

On July 16, 2010, the Executive Director granted Legacy an extension to September 7, 2010.

On August 23, 2010, a PHC was held at the Commission in San Francisco. At the PHC, Legacy and CPSD agreed to a schedule under which Legacy would provide a response and its reply testimony on September 21, 2010.

² *Id.*

On September 21, 2010, Legacy filed a response to the questions in OP 2, but failed to reference and identify supporting documents as required by OP 2. Legacy also failed to file reply testimony.

On October 1, 2010, Legacy filed a motion asking for relief from providing further identification of documents supporting its responses.³ Legacy argued that “CPSD has had nearly all the relevant documents for three years.”⁴

On October 13, 2010, CPSD filed in opposition to the Motion.⁵ CPSD argued that Legacy’s motion is untimely, should be denied on the merits, and Legacy should be penalized for its non-compliance with the OII and the schedule agreed to in the PHC.

On October 19, 2010, a telephone conference with the Administrative Law Judge (ALJ), Legacy and CPSD took place in order to determine the status of the proceeding

An ALJ Ruling issued on October 26, 2010, adopting a new schedule for managing the case forward.

On November 12, 2010, Legacy served its Reply Testimony and documents supporting its response to the Commissioner’s OII.

On January 6, 2010, CPSD filed its Rebuttal Testimony.

³ Motion of Legacy Long Distance International, Inc. (U5786C) for Relief from Requirement to Further Identify Documents Already in the Possession of CPSD, October 1, 2010 (Motion).

⁴ Motion at 3.

⁵ Opposition to Motion of Legacy Long Distance International, Inc. for Relief from Requirement to Further Identify Documents Already in the Possession of CPSD; CPSD Request for Preclusion Order, Penalties and/or Contempt Fine Imposed on Legacy Long Distance International, Inc. (October 13, 2010).

On January 20, 2011, Legacy filed its Surrebuttal Testimony.

On January 21, 2011, via e-mail, CPSD and Legacy requested a continuation of the proceeding, noting that Legacy had presented CPSD with a settlement offer on January 17, 2011.

On February 28, 2011, via e-mail, CPSD and Legacy reported a settlement in principle and the ALJ removed evidentiary hearings from the calendar.

On March 9, 2011, the CPSD attorney, via e-mail, reported that he had conferred with Legacy, and that they desired another 30 days to finalize the settlement and joint motion.

Discussion

Based on the current status of the case, this proceeding cannot be completed by June 24, 2011. An extension of time for an additional 12 months is necessary for resolution of this matter.

Waiver of Comments

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, pursuant to this rule, the otherwise applicable period for public review and comment is waived.

Findings of Fact

1. This proceeding was initiated on June 24, 2010.
2. On January 21, 2011, CPSD and Legacy requested via e-mail a continuance for the proceeding in order to pursue settlement discussions.
3. On February 28, 2011, CPSD and Legacy reported via-email that they had reached a settlement in principle and the ALJ removed the evidentiary hearings from the schedule in this proceeding.

4. On March 9, 2011, CPSD and Legacy reported via e-mail that they required another 30 days to finalize the settlement agreement and a joint motion to adopt the settlement.

5. Due to the time spent in pursuit of settlement and the preparation of a settlement agreement, additional time is needed to complete this proceeding.

6. The current status of this proceeding does not permit resolution by June 24, 2011.

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.

IT IS ORDERED that the 12-month statutory deadline in this proceeding, June 24, 2011, is extended for an additional 12 months until June 24, 2012.

This order is effective today.

Dated May 5, 2011, at San Francisco, California.

MICHAEL R. PEEVEY
President
TIMOTHY ALAN SIMON
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
MARK FERRON
Commissioners