

Decision 12-01-025 January 12, 2012

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 was January 19, 2011. That deadline was extended to January 19, 2012 by Decision 10-12-046. 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, 2013.

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, 2010 by e-mail message that they had agreed to such a procedure. However, on August 6, 2010 the City advised Verizon's counsel by e-mail that it would not be possible to agree on a joint statement of facts. Each party filed a Motion for Summary Judgment on August 6, 2010. Despite this departure from the procedure agreed upon by the parties, and the absence of a joint statement of undisputed facts, a proposed decision was issued on March 7, 2011. On March 28, 2011, Southern California Edison Company and San Diego Gas and Electric Company filed Motions for Party Status, in order to file comments on the proposed decision. The City of Santa Monica filed a Motion for Party Status on April 12, 2011, for the same reason, its second such motion in this proceeding. The assigned ALJ denied each

of these motions. The assigned ALJ retired from state service on May 9, 2011. The proposed decision was withdrawn from consideration on May 26, 2011. This proceeding was reassigned to a new ALJ on June 7, 2011.

Discussion

Based on the current status of the case, the outdated and incomplete state of the record as described above, the additional parties who wish to participate in the case, and the assignment of a new ALJ, this proceeding cannot be completed by January 19, 2012. 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

Michael R. Peevey is the assigned Commissioner and Stephen C. Roscow 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 events that occurred during the pendency of this proceeding and by the retirement of the originally assigned ALJ.
2. This proceeding cannot be completed by January 19, 2012.

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, 2013.

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

This order is effective today.

Dated January 12, 2012, at San Francisco, California.

MICHAEL R. PEEVEY

President

TIMOTHY ALAN SIMON

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

MARK J. FERRON

Commissioners