

Decision 08-10-032 October 16, 2008

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Pac-West Telecomm, Inc. (U5266C),
Complainant,

vs.

Comcast Phone of California, LLC (U5698C),
Defendant.

Case 07-09-010
(Filed September 20, 2007)

And Related Matter.

Case 07-11-015
(Filed November 26, 2007)

ORDER EXTENDING STATUTORY DEADLINE

Summary

Pub. Util. Code § 1701.2(d) provides that adjudicatory cases shall be resolved within 12 months of initiation unless the Commission makes findings why that deadline cannot be met and issues an order extending the deadline. Case (C.) 07-11-015 was initiated on November 27, 2007 and subsequently consolidated with C.07-09-010. In the order consolidating the cases, the assigned Administrative Law Judge (ALJ) noted that whether additional proceedings would be required in C.07-11-015 would be determined by the decision in C.07-09-010. If that decision found defendant Comcast liable to complainant Pac-West, further proceedings would be required to determine whether Comcast could recover on a claim against Pacific Bell dba AT&T California.

The Presiding Officer's Decision (POD) in C.07-09-010 was issued on July 2, 2008. It found Comcast liable to Pac-West for unpaid call termination charges and accordingly left C.07-11-015 open for further proceedings to adjudicate the merits of Comcast's claim over against AT&T California. All parties appealed the decision in C.07-09-010. The appeals raise a variety of substantive and procedural issues including complex issues of overlapping state and federal jurisdiction.

Under the circumstances and because of the nearness of the approaching statutory deadline, an extension of the statutory deadline is necessary to accommodate the Commissioners' further review of the presiding officer's decision and the appeals of C.07-09-010. Accordingly, we find that the 12-month deadline for resolving C.07-09-010 pursuant to Pub. Util. Code § 1701.2(d) cannot be met, and that an extension in the schedule will be required. An extension through March 31, 2009, should provide a reasonable allowance of time to accommodate the necessary further review.

With regard to C.07-11-015, we believe it will be necessary to issue a separate scoping memorandum and hold evidentiary hearings. Accordingly, we find that the 12-month deadline for resolving C.07-09-010 pursuant to Pub. Util. Code § 1701.2(d) cannot be met, and that an extension in the schedule will be required. An extension through November 30, 2009, should provide a reasonable allowance of time within which to finally adjudicate this matter.

Comments on Proposed Decision

Under Rule 14.6(c)(4) of the 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.

Assignment of Proceeding

Timothy Alan Simon is the assigned Commissioner and Karl J. Bemesderfer is the assigned ALJ and presiding officer in this proceeding.

Findings of Fact

1. C.07-09-010 involves numerous complex substantive and procedural issues including issues of overlapping state and federal jurisdiction.
2. All parties appealed the Presiding Officer's Decision (POD) in C.07-09-010.
3. An extension of the 12-month statutory deadline is necessary to allow time for further review of the POD and appeals.
4. C.07-11-015 was held in abeyance pending the POD in C.07-09-010.
5. The POD in C.07-09-010 found Comcast liable to Pac-West for unpaid call termination charges.
6. Comcast's claim over against AT&T California is now ripe for decision.

Conclusions of Law

1. The 12-month deadline for resolving C.07-09-010 pursuant to Pub. Util. Code § 1701.2(d) should be extended until March 31, 2009.
2. The 12-month deadline for resolving C.07-11-015 pursuant to Pub. Util. Code § 1701.2(d) should be extended until November 30, 2009.

IT IS ORDERED that:

1. The statutory deadline for resolving Case (C.) 07-09-010 is extended until March 31, 2009.
2. The statutory deadline for resolving C.07-11-015 is extended until November 30, 2009.

This order is effective today.

Dated October 16, 2008, at San Francisco, California.

MICHAEL R. PEEVEY

President

DIAN M. GRUENEICH

JOHN A. BOHN

RACHELLE B. CHONG

TIMOTHY ALAN SIMON

Commissioners