



FILED
07/21/21
10:48 AM

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Varcomm Broadband, Inc.
for a Certificate of Public Convenience
and Necessity to Provide Facilities-Based
and Resold Local Exchange Services and
Interexchange Services.

Application 20-12-014

ASSIGNED COMMISSIONER'S SCOPING MEMO AND RULING

This Scoping Memo and Ruling sets forth the category, issues to be addressed, and schedule of the proceeding pursuant to Public Utilities (Pub. Util.) Code § 1701.1 and Article 7 of the Commission's Rules of Practice and Procedure.

1. Procedural Background

On December 21, 2020, Varcomm Broadband, Inc. (Varcomm or Applicant) filed this Application to request a Certificate of Public Convenience and Necessity (CPCN) to provide: 1) full facilities-based and resold competitive local exchange services in the service territories of Pacific Bell Telephone Company d/b/a AT&T California, Frontier California Inc., Citizens Telecommunications Company of California, Inc., Frontier Communications of the Southwest Inc., and Consolidated Communications of California Company (collectively, the Uniform Regulatory Framework Incumbent Local Exchange Carriers or URF ILECs); and 2) full facilities-based interexchange services throughout California. No parties protested the Application.

A telephonic prehearing conference was held on February 23, 2021 to discuss the issues of law and fact and determine the need for hearing and schedule for resolving the matter. After considering the Application, and the discussions at the prehearing conference, I have determined the issues and schedule of the proceeding to be as set forth in this scoping memo.

2. Issues

The issues to be determined are:

1. Whether the Applicant meets all Commission requirements for certification as a competitive local exchange and interexchange carrier such that it should be granted a Certificate of Public Convenience and Necessity in order to provide resold and full-facilities based competitive local exchange service in the service territories of Pacific Bell Telephone (doing business as AT&T California), Frontier California, Inc., Citizens Telecommunications Company of California, Inc., Frontier Communications of the Southwest Inc., and Consolidated Communications of California Company and to provide interexchange services on a statewide basis.
2. Whether the Applicant should be authorized to use the California Public Utilities Commission Energy Division's 21-day expedited environmental review process for its full facilities-based construction activities under statutory or categorical exemptions in the California Environmental Quality Act.
3. Whether it is reasonable to grant the Applicant status of a non-dominant interexchange carrier and be permitted the exemptions granted for them.
4. Whether Applicant's proposed operations raise any environmental and social justice issues.
5. Whether Applicant plans to offer services on a non-discriminatory basis as well as individual case basis contracts.

3. Need for Evidentiary Hearing

The Commission, in Resolution 176-3478, preliminary determined that hearings were needed. In the Application, Varcomm proposes that hearings should not be required. There are no issues of material disputed fact that would require hearings. Accordingly, evidentiary hearing is not needed.

4. Schedule

This Application is currently under Commission review for compliance with CPCN requirements. This matter shall be submitted upon completion of the Commission's review of this Application.

The proposed decision is expected to be filed no later than 90 days from submission for public review and comment pursuant to Public Utilities Code section 311(d) except that, if it grants the uncontested requested relief, public review and comment shall be waived pursuant to Rule 14.6(c)(2). The Commission intends to complete this proceeding within 18 months of this proceeding's initiation date. The Commission may extend the deadline by order. (Pub. Util. Code § 1701.5(a).)

5. Category of Proceeding/Ex Parte Restrictions

This ruling confirms the Commission's preliminary determination that this is a ratesetting proceeding. (Resolution ALJ 176- 3478.) Accordingly, *ex parte* communications are restricted and must be reported pursuant to Article 8 of the Commission's Rules of Practice and Procedure.

6. Public Outreach

Pursuant to Pub. Util. Code § 1711(a), I hereby report that the Commission sought the participation of those likely to be affected by this matter by noticing it in the Commission's monthly newsletter that is served on communities and businesses that subscribe to it and posted on the Commission's website.

7. Response to Public Comments

Parties may, but are not required to, respond to written comments received from the public. (*See* Pub. Util. Code § 1701.1(g).) Parties may do so by posting such response using the “Add Public Comment” button on the “Public Comment” tab of the docket card for the proceeding.

8. Public Advisor

Any person interested in participating in this proceeding who is unfamiliar with the Commission’s procedures or has questions about the electronic filing procedures is encouraged to obtain more information at <http://consumers.cpuc.ca.gov/pao/> or contact the Commission’s Public Advisor at 866-849-8390 or 415-703-2074 or 866-836-7825 (TYY), or send an e-mail to public.advisor@cpuc.ca.gov.

9. Filing, Service, and Service List

The official service list has been created and is on the Commission’s website. Parties should confirm that their information on the service list is correct and serve notice of any errors on the Commission’s Process office, the service list, and the ALJ. Persons may become a party pursuant to Rule 1.4.

When serving any document, each party must ensure that it is using the current official service list on the Commission’s website.

This proceeding will follow the electronic service protocol set forth in Rule 1.10. All parties to this proceeding shall serve documents and pleadings using electronic mail, whenever possible, transmitted no later than 5:00 p.m., on the date scheduled for service to occur. Rule 1.10 requires service on the ALJ of both an electronic and a paper copy of filed or served documents.

When serving documents on Commissioners or their personal advisors, whether or not they are on the official service list, parties must only provide

electronic service. Parties must NOT send hard copies of documents to Commissioners or their personal advisors unless specifically instructed to do so.

Persons who are not parties but wish to receive electronic service of documents filed in the proceeding may contact the Process Office at process_office@cpuc.ca.gov to request addition to the “Information Only” category of the official service list pursuant to Rule 1.9(f).

The Commission encourages those who seek information-only status on the service list to consider the Commission’s subscription service as an alternative. The subscription service sends individual notifications to each subscriber of formal e-filings tendered and accepted by the Commission. Notices sent through subscription service are less likely to be flagged by spam or other filters. Notifications can be for a specific proceeding, a range of documents and daily or weekly digests.

10. Receiving Electronic Service from the Commission

Parties and other persons on the service list are advised that it is the responsibility of each person or entity on the service list for Commission proceedings to ensure their ability to receive emails from the Commission. Please add “@cpuc.ca.gov” to your email safe sender list and update your email screening practices, settings and filters to ensure receipt of emails from the Commission.

11. Assignment of Proceeding

Martha Guzman Aceves is the assigned commissioner and Elaine Lau is the assigned ALJ for the proceeding.

IT IS RULED that:

1. The scope of this proceeding is described above.
2. The category of this proceeding is ratesetting.
3. Evidentiary hearings are not needed.

This order is effective today.

Dated July 21, 2021, at San Francisco, California.

/s/ MARTHA GUZMAN ACEVES

Martha Guzman Aceves
Assigned Commissioner