

Decision 11-07-054 July 28, 2011

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Fones4All Corporation (U6338C),

Complainant,

vs.

Pacific Bell Telephone Company,
d/b/a AT&T California (U1001C),

Defendant.

Case 07-12-030
(Filed December 28, 2007)

And Related Matter.

Case 08-02-009
(Filed February 8, 2008)

ORDER EXTENDING STATUTORY DEADLINE

Pub. Util. Code § 1701.2(d) provides that adjudicatory cases shall be resolved within 12 months of the date that they are initiated unless the Commission makes findings as to why that deadline cannot be met and issues an order extending that deadline. This consolidated matter has been categorized as adjudicatory, and the 12-month deadline for resolving this proceeding was February 8, 2009. In Decision (D.) 09-01-028, the Commission extended the deadline 180 days until August 8, 2009. In D.09-08-016 and D.09-11-022, the Commission twice further extended the deadline an additional 180 days until February 3, and August 2, 2010, respectively. In D.10-07-010, the Commission extended the statutory deadline until August 2, 2011.

In August 2008, Fones4All Corporation (Fones4All) filed for bankruptcy protection. Fones4All's bankruptcy filing automatically stayed, by operation of law, Case (C.) 08-02-009, which sets forth certain Pacific Bell Telephone Company¹ counterclaims against Fones4All. The interconnectedness between the parties' claims against each other makes proceeding with Fones4All's complaint against AT&T California untenable while AT&T California's counterclaims are stayed.

In addition, Fones4All and AT&T California have asserted that there is a likelihood that the bankruptcy process might result in resolution of both parties' respective claims against the other. Consequently, at the joint request of the parties, the assigned Administrative Law Judge (ALJ) stayed² Fones4All's complaint against AT&T California pending the outcome of Fones4All's bankruptcy proceeding. As of this date, Fones4All's bankruptcy proceeding is still pending, and it is uncertain when the matter will be concluded. Moreover, there is no indication that the bankruptcy proceeding will be concluded by August 2, 2011. Consequently, an extension of the statutory deadline is reasonable to accommodate the stay granted these consolidated complaints until the resolution of Fones4All's bankruptcy case and the issuance of the presiding officer's decision on any unresolved issues.

Waiver of Comment Period

Under Rule 14.6(c)(4) of the Commission's Rules of Practice and Procedure (Rules), the Commission may reduce or waive the period for public review and

¹ Pacific Bell Telephone Company does business as AT&T California.

² By ruling issued on January 13, 2009.

comment of decisions extending the deadline for resolving adjudicatory proceedings. Accordingly, pursuant to Rule 14.6(c)(4), the otherwise applicable period for public review and comment is waived.

Assignment of Proceeding

Timothy Alan Simon is the assigned Commissioner and Jacqueline A. Reed is the assigned ALJ in this proceeding.

Findings of Fact

1. This consolidated proceeding was initiated on February 8, 2008.
2. Fones4All, which is the complainant in the first of the consolidated proceedings and the defendant in the second, filed for bankruptcy protection in August 2008.
3. Based upon the statutory deadline, this proceeding must be resolved within 12 months of its initiation unless this date is extended.
4. In January 2009, the assigned ALJ issued a ruling holding the consolidated matter in abeyance until Fones4All's bankruptcy case is resolved.
5. In D.09-01-028, the Commission extended the statutory deadline 180 days until August 8, 2009.
6. In D.09-08-016 and D.09-11-022, the Commission twice further extended the statutory deadline another 180 days until February 3, and August 2, 2010, respectively.
7. In D.10-07-010, the Commission extended the statutory deadline until August 2, 2011.
8. A further extension of the 12-month deadline is necessary because it is unlikely that the pending bankruptcy proceeding will be resolved by August 2, 2011, and the remaining issues are complex.

Conclusions of Law

1. The 12-month statutory deadline imposed by Pub. Util. § 1701.2(d) should be extended until December 2, 2011, to accommodate the stay granted these consolidated complaints until the resolution of Fones4All's bankruptcy case and the issuance of the presiding officer's decision on any unresolved issues in this proceeding.

2. This matter should be effective immediately.

IT IS ORDERED that the statutory deadline in this proceeding, August 2, 2011, is further extended one year until December 2, 2011.

This order is effective today.

Dated July 28, 2011, at San Francisco, California.

MICHAEL R. PEEVEY

President

TIMOTHY ALAN SIMON

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

MARK J. FERRON

Commissioners