

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Comcast Business Communications, Inc. (U-5380-C) for Approval of the Change of Control of Comcast Business Communications, Inc., That Will Occur Indirectly as a Result of the Placement of AT&T Broadband and Comcast Corporation Under a New Parent, AT&T Comcast Corporation.

Application 02-05-010
(Filed May 2, 2002)

In the Matter of the Application of AT&T Broadband Phone of California, LLC (U-5698-C) for Approval of the Change of Control of AT&T Broadband Phone of California, LLC That Will Occur Indirectly as a Result of the Placement of AT&T Broadband and Comcast Corporation Under a New Parent, AT&T Comcast Corporation.

Application 02-05-011
(Filed May 2, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING
EXTENDING TIME FOR COMMENTS ON THE
DRAFT DECISION OF ADMINISTRATIVE LAW JUDGE SULLIVAN**

1. Summary

This ruling grants Qwest Communications Corporation's (Qwest) motion for an extension of time to file opening and reply comments on the Draft Decision of Administrative Law Judge Sullivan (Draft Decision). Opening comments are now due on October 15, 2002. Reply comments are due October 21, 2002.

This ruling, however, denies Qwest's motion to reschedule Oral Argument. Scheduling of Oral Argument requires coordination with the schedules of all five Commissioners. Therefore, it is not practical to reschedule Oral Argument at this time without delaying resolution of this matter or creating still other schedule conflicts.

Background

Application (A.) 02-05-010 of Comcast Business Communications (CBC) seeks approval of the change in control of Comcast Business Communications that will occur indirectly as a result of the placement of AT&T Broadband and CBC under a new parent, AT&T Comcast Corporation (AT&T Comcast).

A.02-05-011 of AT&T Broadband Phone Company of California (AT&T Broadband Phone) seeks approval of the change of control of AT&T Broadband Phone that will occur indirectly as a result of the placement of AT&T Broadband Phone and CBC under a new parent AT&T Comcast.

A Draft Decision granting authority for a change of control was mailed on September 20, 2002. Consistent with standard Commission procedures, opening comments are due on October 10, 2002 and reply comments on October 15, 2002.

On September 27, 2002, Qwest filed a motion asking for an extension of time for opening comments, from October 10, 2002 to October 15, 2002. Qwest notes that its outside counsel is out of the country until October 9, 2002 and its in-house counsel will be out of the country from September 30 until October 11. Qwest states that the Commission will benefit from "Qwest's counsel being

given adequate time to prepare comments on the Draft Decision.”¹ Qwest further states that the burden of potential delay is minimal.

In addition, Qwest requests the rescheduling of Oral Argument from October 16, 2002 to October 21, 2002 because in-house counsel has been asked to testify before the FCC on October 16, 2002.

On September 27, 2002, CBC and AT&T Broadband Phone (collectively “Applicants”) filed in opposition to the Qwest motion. Applicants state that delaying consideration of the Draft Decision from the October 24, 2002 to the November 7, 2002 Commission meeting will create significant hardship for the applicants. Applicants argue: “Apparently Qwest is shocked that in spite of its efforts to derail these Applications, the Commission has held to its own schedule.”² The Applicants argue that the schedule has been set since August 8, 2002, and that there is no excuse for seeking more time at this late date. Applicants further state that the scheduling of Oral Argument, requested by Qwest on August 23, 2002, was predictable within the time frame when it was scheduled. In conclusion, Applicants ask that should the Commission grant the requested extension, that the Commission “remain committed to its schedule of voting . . . at its agenda meeting of October 24.”³

¹ Qwest Communications Corporation’s Motion for Extension of Time to File Comments on the Draft Decision of Administrative Law Judge Sullivan and for Order Shortening Time to Respond, September 27, 2002.

² Opposition of Comcast Business Communications, Inc. and AT&T Broadband Phone of California, LLC to the Motion of Quest to the Motion of Qwest Communications for Extension of Time, September 27, 2002.

³ *Ibid.*

Discussion

Concerning Qwest's request for an extension for filing comments, we believe that we can both grant the requested extension and permit Commission consideration of this matter on the October 24, 2002 Commission meeting. Thus, the Commission can reap the full benefit of Qwest's comments without imposing any additional burden on Applicants. We, therefore, set opening comments for October 15, 2002 and reply comments for October 21, 2002.

We deny, however, the request for the rescheduling of Oral Argument. Scheduling of Oral Argument was done at the request of Qwest. Moreover, given the timetable announced for this matter, the scheduling of Oral Argument in this time period was entirely predictable. The Commission, in setting the October 16, 2002 date, had the difficult task of finding a date on which all Commissioners could attend. Seeking yet another date to accommodate the schedule of Qwest's in-house attorney is impractical, and sure to lead to still more scheduling conflicts. Moreover, we note that Qwest's outside counsel is able to attend the Oral Argument, thus insuring that one counsel intimately familiar with this proceeding can participate. As a result, we see no benefits and substantial disadvantages to rescheduling Oral Argument. We, therefore, decline to do so.

IT IS RULED that:

1. Qwest Communications Corporation's (Qwest) request for an extension of time to file comments on the Draft Decision of Administrative Law Judge Sullivan is granted. Opening comments for all parties are now due on October 15, 2002 and reply comments are due on October 21, 2002.
2. Qwest's request for the rescheduling of Oral Argument is denied.

Dated October 2, 2002, at San Francisco, California.

/s/ TIMOTHY J. SULLIVAN

Timothy J. Sullivan
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Extending Time for Comments on the Draft Decision of Administrative Law Judge Sullivan on all parties of record in this proceeding or their attorneys of record.

Dated October 2, 2002, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

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