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415-929-8876 • www.turn.org

Ashley L. Salas, Staff Attorney

SENT VIA EMAIL

timothy.sullivan@cpuc.gov

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Timothy J. Sullivan
Executive Director
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
timothy.sullivan@cpuc.ca.gov

RE: The Utility Reform Network, Center for Accessible Technology, and Mendocino County Oppose the Requests for Extension of Time for Compliance with Decision 16-12-066 by AT&T California's (U1001C) ("AT&T"); Comcast Phone of California (U5698C) ("Comcast"); Frontier California Inc. (U1002C), Citizens Telecommunications Company of California Inc. (U1024C), and Frontier Communications of the Southwest Inc. (U1026C) ("Frontier"); MCImetro Access Transmission Services Corp. (U5253C) ("MCI"); and Charter Fiberlink and Time Warner Cable Information Service (California) ("Charter")

Dear Director Sullivan,

In response to multiple carriers' requests for extension of time to comply with D.16-12-066 ("Final Decision"),¹ The Utility Reform Network, Center for Accessible Technology, and Mendocino County oppose the requested extensions on procedural and substantive grounds.

Requests for extensions of time to comply with Commission decisions are governed by Rule 16.6 of the California Public Utility Commission Rules of Practice and Procedure. Rule 16.6 requires that the request "must be received by the Executive Director at least five business days before the existing date for compliance." The Final Decision has staggered compliance dates² for its ordering paragraphs, with its earliest compliance dates – OPs 5, 6, and 16 – within 30 days of the issuance of the Final Decision, February 3, 2017. AT&T filed its request for extension of time on January 27, 2017. Other carriers subsequently filed their requests explicitly in support of AT&T's request, or in the case of Frontier, filed a substantially similar request.³

¹ AT&T's Request for Extension of Time (January 27, 2017); Frontier's Request for Extension of Time (January 30, 2017); Comcast's Requests for Extension of Time (January 30, 2017); MCI's Request for Extension of Time (January 30, 2017); and Charter's Request for Extension of Time (February 1, 2017). Cox also filed a more appropriate and narrower request on January 27, 2017, which is not opposed in this letter.

² Final Decision, pp. 178- 184 (Issued January 4, 2017) provided the following dates of compliance which are currently at issue: OP 1 (March 31, 2017), OP 2 (beginning April 1, 2017), OP 5 (within 30 days of issuance – February 3, 2017), OP 6 (within 30 days of issuance – February 3, 2017), OP 7 (by the end of the first quarter of 2017), OP 11 (by March 1, 2017), OP 16 (within 30 days of issuance – February 3, 2017).

³ All of the requests submitted after that of AT&T are untimely based on the requirements of Rule 16.6.

The carriers' requests for delay exceed the proper scope of a request under Rule 16.6. Rather than serving a simple and reasonable request for extension, the requests presented by AT&T and the other carriers appear to effectively seek a stay of the requirements set out in the Final Decision, and imply that such a delay or stay is intended to allow for a challenge to the Final Decision itself. Further, the carriers improperly attempt to reargue issues that were fully addressed and resolved by the Final Decision. For example, AT&T argues, and the other carriers support the argument that the "expansive scope of this proceeding deserves further discussion and active engagement" thus necessitating extending the ordering paragraphs' staggered deadlines.⁴ Additionally, AT&T improperly raises concerns of potential unintentional consequences of some of the requirements.⁵ Comcast, MCI, and Charter, add that they are unsure whether compliance is required of their affiliates.⁶ All of these concerns were properly addressed during the proceeding's comment period, during which all of the carriers were active parties. If these carriers believe the Commission has committed legal error, or if they need further clarity, the carriers should use more appropriate procedural means available for redress through the application or petition process.⁷

Furthermore, the carriers' overly-broad requests unreasonably and unjustly encompass nearly every ordering paragraph which sets a deadline for carriers to comply with the Final Decision's directives. The carriers do not provide any justification whatsoever for their requested significant delay of certain requirements, and even where they attempt to provide some basis, the arguments are inadequate. For example, AT&T attempts to justify its request for extension by suggesting that it will be busy attending meetings ordered in several unrelated ordering paragraphs and that these meetings will somehow impact its ability to comply with the subject ordering paragraphs.⁸ In another example, OP 1 directs CPED and CD to seek data to analyze gaps between attempted calls and completed calls to and from California; the Ordering Paragraph requires carriers to comply with these data requests no later than March 31, 2017.⁹ While AT&T has included this Ordering Paragraph in its request for extension, and other carriers support AT&T's request, no carrier attempts to explain why it could not respond to such data requests by March 31, 2017.

For the earliest deadlines, it appears that the carriers simply will not be in compliance, regardless of how the Commission responds to the requests. Yet the carriers' delay in waiting until the last moment to file their requests should not be allowed to force the Commission's hand to approve the requests. The requirements in D.16-12-066 were adopted in large part to address significant public

⁴ See AT&T Request, p. 1. See also Frontier Request, pp. 1-2; Comcast Request, p. 1; MCI Request, p. 1; Charter pp. 1-2.

⁵ AT&T Request, p. 2.

⁶ Comcast Request, fn. 1; MCI Request, fn. 1; Charter, p. 1, fn. 2.

⁷ Comcast, MCI, and Charter note that they intend to file an application for rehearing. See Comcast Request, fn. 3; MCI Request, fn. 3; Charter p. 2, fn. 4. However, their forthcoming pending application is not grounds to excuse compliance with the Final Decision. California Public Utility Commission Rules of Practice and Procedure Rule 16.1(b) states explicitly "Filing an application for rehearing shall not excuse compliance with an order or a decision." Rule 16.4 (h) states that a Petition for Modification also does not stay compliance with a Commission decision. If the carriers believe a stay is appropriate, they can file a motion, providing all parties with notice and an opportunity to respond.

⁸ AT&T Request, p. 1, fn. 1 (AT&T cites to OPs 15, 17, and 22 which cover topics unrelated to the ordering paragraphs where AT&T is requesting an extension). See also Frontier Request, pp. 1-2 (also claiming time spent in discussion with different groups will impact its ability to comply); Comcast Request, p. 1; MCI Request, p. 1; Charter, p. 2.

⁹ Final Decision, p. 178 (Issued January 4, 2017).

safety issues. During the proceeding AT&T and, in some instances other carriers, argued vehemently that the proposed requirements were unnecessary. The Commission disagreed. The Final Decision was initially issued on December 27, 2016, and then reissued with a January 4, 2017 issue date. The reissued Final Decision did not change the substance or stated timeframes for compliance with the Final Decision. In effect, the carriers knew of these requirements since the issuance of the Proposed Decision and, presumably, had been working in good faith to try to meet the compliance deadlines. It would have provided more options for the Commission and interested stakeholders if the carriers had requested their extension earlier in this process. Yet, the carriers chose to wait until the last moment to attempt to raise any concerns with the compliance requirements and dates. The carriers' should not be rewarded for this delay, and their delay should not seal the fate of their extension requests.

For these procedural and substantive reasons, The Utility Reform Network, Center for Accessible Technology, and Mendocino County oppose the carriers' requests for extension of time for various lengths of time, up to six months. Intervenors are willing to work with staff and parties to discuss reasonable, narrow requests for extensions of time for aspects of the order where such a need is demonstrated and in a process directed by the Commission. This should be done through proper procedural channels, with notice and opportunity for all parties to participate.

Thank you for your consideration.

Respectfully submitted,

/s/ Ashley L. Salas

Ashley L. Salas
Staff Attorney

On behalf of The Utility Reform Network; Melissa Kasnitz, Center for Accessible Technology; and John McCowen, Chair of Mendocino County Board of Supervisors

cc: Michael Amato, Eric Van Wambeke, Administrative Law Division
Service List for I.14-05-012