

Decision 98-12-060 December 17, 1998

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Petition by E.spire
Communications, Inc. (U-5921-C) For Arbitration
of an Interconnection Agreement with Pacific
Bell Pursuant to Section 252(b) of the
Telecommunications Act of 1996.

ORIGINAL
Application 98-08-048
(Filed August 31, 1998)

ORDER DISMISSING ARBITRATION

This arbitration petition was filed on August 31, 1998 pursuant to § 252 of the Federal Telecommunications Act of 1996 (TA96) and Commission Resolution ALJ-174. The petition recites that E.spire made its initial request for negotiations on March 24, 1998. Pursuant to § 252(b)(4)(C) of TA96, the Commission is required to complete the arbitration and issue the final arbitrator's report no later than 9 months after the request for negotiations was made. The date concluding the 9-month period will be December 24, 1998.

For various reasons, unrelated to the Commission's internal ability to process this arbitration in a timely manner, the parties have not conducted their activities in relation to this arbitration in a manner that will permit its conclusion within the time permitted. On December 4, 1998, noting this fact, this proceeding's assigned Arbitrator issued an Arbitrator's Ruling requesting that the parties file an explicit written waiver of the 9-month time limit on or before December 16, 1998. The filing of the waiver would permit the Commission to process this arbitration when the parties are ready to proceed. The Arbitrator's Ruling advised the parties that if they did not file the written waivers, the Commission would dismiss this proceeding for failure to prosecute it in a timely fashion.

Neither party filed a written waiver of the 9-month time limit on or before December 16, 1998. Therefore, we shall dismiss this petition for arbitration for failure to prosecute it in a timely fashion.

Findings of Fact

1. E.spire made its initial request for negotiations on March 24, 1998.
2. The date concluding the 9-month period after the request for negotiations was made will be December 24, 1998.
3. For various reasons, unrelated to the Commission's internal ability to process this arbitration in a timely manner, the parties have not conducted their activities in relation to this arbitration in a manner that will permit its conclusion within the time permitted.
4. On December 4, 1998, this proceeding's assigned Arbitrator issued an Arbitrator's Ruling requesting that the parties file an explicit written waiver of the 9-month time limit on or before December 16, 1998, or the Commission would dismiss the matter for failure to prosecute it in a timely fashion.
5. Neither party filed a written waiver of the 9-month time limit on or before December 16, 1998.

Conclusions of Law

1. Pursuant to § 252(b)(4)(C) of TA96, the Commission is required to complete the arbitration and issue the final arbitrator's report no later than 9 months after the request for negotiations was made.
2. The filing of an explicit written waiver of the 9-month time limit would permit the Commission to process this arbitration when the parties are ready to proceed.
3. This order should be effective on the date signed for administrative efficiency.

IT IS ORDERED that:

1. Application 98-08-048, the petition for arbitration filed by E.spire Communications, Inc., is dismissed for failure to prosecute it in a timely fashion.
2. This proceeding is closed.

This order is effective today.

Dated December 17, 1998, at San Francisco, California.

RICHARD A. BILAS
President
P. GREGORY CONLON
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners