



FILED
8-15-17
01:39 PM

MGA/ek4 8/15/2017

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Joint Applications of Broadwing Communications, LLC (U5525C); Global Crossing Local Services, Inc. (U5685C); Global Crossing Telecommunications, Inc. (U5005C); IP Networks, Inc. (U6362C); Level 3 Communications, LLC (U-5941-C); Level 3 Telecom of California, LP (U5358C); WilTel Communications, LLC (U6146C); and Level 3 Communications, Inc., a Delaware Corporation; and CenturyLink, Inc., a Louisiana Corporation, for Approval of Transfer of Control of the Level 3 Operating Entities Pursuant to California Public Utilities Code Section 854(a).

Application 17-03-016

SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER

Summary

This scoping memo and ruling (scoping memo) sets forth the category, issues, and schedule pursuant to Pub. Util. Code § 1701.1¹ and Article 7 of the California Public Utilities Commission's (Commission's) Rules of Practice and Procedure.²

¹ Unless otherwise stated, all subsequent references to code sections are to the Pub. Util. Code.

² Unless otherwise stated, all subsequent references to Rule or Rules are to the Commission's Rules of Practice and Procedure, California Code of Regulations, Title 20, Division 1, Chapter 1. Senate Bill (SB) 215 (Leno, ch. 807, Stats. 2016) directs the Commission to make modifications to the Rules. SB 215 is an act to amend Sections 309.6, 1701.1, 1701.2, 1701.3, 1701.4, and 1701.5 of,

Footnote continued on next page

1. Background

This Application, filed on March 22, 2017, seeks Commission approval pursuant to § 854(a) for the merger of the following telecommunications entities: Broadwing Communications, LLC (U-5525-C), Global Crossing Local Services, Inc. (U-5685-C), Global Crossing Telecommunications, Inc. (U-5005-C), IP Networks, Inc. (U-6362-C), Level 3 Communications, LLC (U-5941-C), Level 3 Telecom of California, LP (U-5358-C), and WilTel Communications, LLC (U-6146-C) (collectively, Level 3 Operating Entities); CenturyLink, Inc. (CenturyLink); and Level 3 Communications, Inc. (Level 3), the ultimate parent of the Level 3 Operating Entities.

All these entities are collectively referred to as Applicants.

The Applicants request Commission approval to transfer control of the Level 3 Operating Entities (each of which is a non-dominant, California certificated competitive local exchange and/or non-dominant interexchange carrier providing services exclusively to enterprise and carrier customers) from Level 3 to CenturyLink.

The transfer will be made pursuant to the Agreement and Plan of Merger between CenturyLink and Level 3 dated October 31, 2016 (Merger Agreement) by which all of Level 3's subsidiaries - including the Level 3 Operating Entities - will become wholly-owned subsidiaries of CenturyLink.

The Merger Agreement is a parent-level transaction and, as a result, the Applicants state that customers will experience no changes in day-to-day operations of the regulated entities that operate in California. Applicants further

and to add Sections 1701.6 and 1701.7 to, the Pub. Util. Code. The current version of the Rules is available on the Commission's website: www.cpuc.ca.gov.

state that the transaction will be transparent to Level 3's customers as the Level 3 Operating Entities will continue to honor their existing contractual and tariff obligations. In addition, the Applicants state that the Commission will retain the same regulatory authority over the Level 3 (and CenturyLink) Operating Entities that the Commission possessed prior to the transaction.

The Applicants anticipate that this request will be non-controversial, and Applicants request approval on an expedited basis.

The Applicants explain that while this Application was filed on May 22, 2017, the Applicants initiated the approval process on January 17, 2017, when each of the Level 3 Operating Entities filed Advice Letters with the Commission to obtain the requisite § 854(a) approval pursuant to the advice letter process established by the Commission in D.04-10-038. The Advice Letters filed by Level 3 Operating Entities were protested and, before any responses to the protests could be filed by the Level 3 Operating Entities, the Commission's Communications Division rejected the Advice Letters and the Applicants then filed this Application for approval of the transaction.

On May 5, 2017, the Office of Ratepayers Advocates (ORA), The Utility Reform Network (TURN), and the Greenlining Institute (Greenlining) filed a joint protest to the Application. The California Emerging Technology Fund (CETF) also filed a protest on May 5, 2017. The Applicants filed a reply to the joint protest and the CETF protest on May 15, 2017.

On June 5, 2017, TURN and Greenlining separately filed notices of intent to claim intervenor compensation in this proceeding.

A settlement conference was noticed on June 22, 2017, pursuant to Rule 12.1(b). On June 30, 2017, a joint settlement was filed, entitled *Joint Motion of the Office of Ratepayer Advocates, The Utility Reform Network, the Greenlining Institute*

and Joint Applicants for Approval of Settlement (Joint Settlement). CETF filed comments in opposition to the Joint Settlement on July 21, 2017. All other parties support the Joint Settlement. The Applicants responded to CETF's comments on July 25, 2017. ORA, TURN, and Greenlining responded to CETF's comments on July 26, 2017.

A prehearing conference (PHC) was held on August 8, 2017.

The Applicants request that the Commission vote to approve of this Joint Settlement at its September 14, 2017 Agenda meeting.

2. Scope

The issues to be determined are:

1. Whether the settlement is reasonable in light of the whole record, consistent with law, and in the public interest;
2. Whether the settlement raises any safety considerations; and
3. Whether the settlement raises any considerations related to disadvantaged communities.

3. Assignment of Proceeding

Martha Guzman Aceves is the assigned Commissioner and Regina DeAngelis is the assigned ALJ. The designated presiding officer is Regina DeAngelis.

4. Categorization

The Commission in Resolution ALJ 176-3396, issued on April 27, 2017, preliminarily determined that the category of the proceeding is ratesetting. This scoping memo confirms the categorization. Anyone who disagrees with this categorization must file an appeal of the categorization no later than 10 days after the date of this scoping ruling. (*See* Rule 7.6.)

5. Need for Evidentiary Hearing

The Commission in Resolution ALJ 176-3396 preliminarily determined that hearings are required. This ruling changes this preliminary determination and finds hearings are not needed.

6. Schedule

Pursuant to § 1701.5, ratesetting cases shall be resolved within 18 months from the date of initiation of the proceeding unless the Commission makes a finding as to why that deadline cannot be met and issues an order extending that deadline. The following schedule is adopted here and may be modified by the assigned Commissioner or Administrative Law Judge as required to promote the efficient and fair resolution of this proceeding:

EVENT	DATE
PHC	August 8, 2017
Evidentiary Hearings	At this time, not needed
Estimated date for mailing of a Proposed Decision	Within 60 days
Anticipated Commission Meeting/Decision	30 Days after Proposed Decision, unless Held to a future Meeting

The 18-month deadline may be extended by order of the Commission.
 (§ 1701.5(a).)

7. Ex Parte Communications

In a proceeding categorized as ratesetting, such as this one, *ex parte* communications are allowed under the law with the assigned Commissioner,

other Commissioners, their advisors, and the Administrative Law Judge as described in § 1701.3(h).

8. Intervenor Compensation

Any party that expects to request intervenor compensation for its participation in this proceeding must file a notice of intent to claim intervenor compensation in accordance with Rule 17.1 and §§ 1801-1812 within 30 days of the first PHC. A PHC was held on August 8, 2017. Any notices of intent to claim intervenor compensation filed prior to the prehearing conference are timely filed.

9. Addition to Official Service List

Addition to the Official Service List is governed by Rule 1.9(f) of the Commission's Rules of Practice and Procedure. Respondents are parties to the proceeding (*see* Rule 1.4(d)) and will be immediately placed on the Official Service List.

Information Only Status

Any person will be added to the "Information Only" category of the Official Service List upon request to the Process Office, for electronic service of all documents in the proceeding, and should do so promptly in order to ensure timely service of comments and other documents and correspondence in the proceeding. (*See* Rule 1.9(f).) The request must be sent to the Process Office by mail (process_office@cpuc.ca.gov) or letter (Process Office, California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, California 94102). Please include the Docket Number of this OII in the request.

Party Status

Persons who file responsive comments thereby become parties to the proceeding (Rule 1.4(a)(2)) and will be added to the "Parties" category of the Official Service List upon such filing. Party status may also be obtained upon

filing a motion for party status in the proceeding. Parties are reminded to maintain information on the Official Service List current.

Subscription Service

Persons may informally monitor the proceeding by subscribing to receive electronic copies of documents in this proceeding that are published on the Commission's website. Instructions for enrolling in the subscription service are available on the Commission's website at <http://subscribecpuc.cpuc.ca.gov>. Those persons on the subscription service will not receive notice of all matters related to the proceeding.

10. Paper Copies of Filings

The assigned Commissioner and ALJ will rely on electronic copies of documents. No paper copies of filings need be provided to either the Commissioner or ALJ.

11. Electronic Submission and Format of Supporting Documents

The Commission's website now allows for the electronic submittal of supporting documents, such as prepared testimony and work papers.

Parties shall submit prepared testimony or workpapers in this proceeding through the Commission's electronic filing system.³ Parties must adhere to the following:

- The Instructions for Using the "Supporting Documents" Feature, (<http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=158653546>), and

³ These instructions are for submitting supporting documents such as testimony and work papers in formal proceedings through the Commission's electronic filing system. Parties must follow all other rules regarding serving testimony.

Any document that needs to be formally filed such as motions, briefs, comments, etc., should be submitted using Tabs 1 through 4 in the electronic filing screen.

- The Naming Convention for Electronic Submission of Supporting Documents
<http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=100902765>).
- The Supporting Document feature does not change or replace the Commission's Rules of Practice and Procedure. Parties must continue to adhere to all rules and guidelines in the Commission's Rules of Practice and Procedures, including, but not limited to, Rules for participating in a formal proceeding, filing and serving formal documents and Rules for written and oral communications with Commissioners and advisors (i.e., *ex parte* communications) or other matters related to a proceeding.
- The Supporting Document feature is intended to be solely for the purpose of parties submitting electronic public copies of prepared testimony, work papers, and workshop reports (unless instructed otherwise by the Administrative Law Judge), and does not replace the requirement to serve documents to other parties in a proceeding.
- Unauthorized or improper use of the Supporting Document feature will result in the removal of the submitted document by the Commission.
- Supporting Documents should not be construed as the formal files of the proceeding. The documents submitted through the Supporting Document feature are for information only and are not part of the formal file unless accepted into the record by the Administrative Law Judge.

All documents submitted through the "Supporting Documents" Feature shall be in PDF/A format. The reasons for requiring PDF/A format are:

- Security - PDF/A prohibits the use of programming or links to external executable files. Therefore, it does not allow malicious codes in the document.

- Retention – The Commission is required by Resolution L-204, dated September 20, 1978, to retain documents in formal proceedings for 30 years. PDF/A is an independent standard and the Commission staff anticipates that programs will remain available in 30 years to read PDF/A.
- Accessibility – PDF/A requires text behind the PDF graphics so the files can be read by devices designed for those with limited sight. PDF/A is also searchable.

Until further notice, the “Supporting Documents” do not appear on the “Docket Card”. In order to find the supporting documents that are submitted electronically, go to:

- Online documents, choose: “[E-filed Documents.](#)”
- Select “Supporting Document” as the document type, (do not choose testimony).
- Type in the proceeding number and hit search.

Please refer all technical questions regarding submitting supporting documents to:

- Kale Williams (kale.williams@cpuc.ca.gov) 415 703- 3251 and
- Ryan Cayabyab (ryan.cayabyab@cpuc.ca.gov) 415 703-5999

12. Discovery

Discovery may be conducted by the parties consistent with Article 10 of the Commission’s Rules. Any party issuing or responding to a discovery request shall serve a copy of the request or response simultaneously on all parties.

Electronic service under Rule 1.10 is sufficient, except Rule 1.10(e) does not apply to the service of discovery and discovery shall not be served on the ALJ. Motions to compel or limit discovery shall comply with Rule 11.3.

13. Public Advisor

Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures or who 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 (TTY), or send an e-mail to public.advisor@cpuc.ca.gov. Settlement and Alternative Dispute Resolution

14. Alternative Dispute Resolution

The Commission offers Alternative Dispute Resolution (ADR) services consisting of mediation, facilitation, or early neutral evaluation. Use of ADR services is voluntary, confidential, and at no cost to the parties. Trained ALJs serve as neutrals. The parties are encouraged to visit the Commission's ADR webpage at <http://www.cpuc.ca.gov/adr/> for more information.

If requested, the assigned Administrative Law Judge will refer this proceeding, or a portion of it, to the Commission's ADR Coordinator. Alternatively, the parties may contact the ADR Coordinator directly at adr_program@cpuc.ca.gov. The parties will be notified as soon as a neutral has been assigned; thereafter, the neutral will contact the parties to make pertinent scheduling and process arrangements. Alternatively, and at their own expense, the parties may agree to use outside ADR services.

15. Miscellaneous Matters

1. All pleadings filed in this proceeding must include a table of contents.
2. The subject line of all e-mails in this proceeding must include the following, as noted: A17-03-016
Level 3/Century Link)

Name of Party, Concise Name of Filing.

IT IS RULED that:

1. The category of this proceeding is ratesetting. Appeals as to category, if any, must be filed and served within 10 days from the date of this scoping memo.
2. The scope of the issues for this proceeding are stated herein.
3. Hearings are not necessary at this time.
4. The schedule for the proceeding is set forth herein. The assigned Commissioner or Administrative Law Judge may adjust this schedule as necessary for efficient management and fair resolution of this proceeding.
5. With exceptions that are subject to reporting requirements, *ex parte* communications are prohibited. (Pub. Util. Code § 1701.3(h); Article 8 of the Commission's Rules of Practice and Procedure.)

Dated August 15, 2017, at San Francisco, California.

/s/ MARTHA GUZMAN ACEVES

Martha Guzman Aceves
Assigned Commissioner