

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-277T

IN THE MATTER OF THE APPLICATION OF SOUTH PARK TELEPHONE COMPANY
FOR APPROVAL OF ITS APPLICATION FOR HIGH COST SUPPORT MECHANISM
SUPPORT.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
GRANTING MOTION TO WITHDRAW
APPLICATION, DISMISSING
APPLICATION WITHOUT PREJUDICE,
VACATING HEARING, WAIVING RESPONSE
TIME, AND CLOSING DOCKET**

Mailed Date: January 9, 2004

I. STATEMENT, FINDINGS, AND CONCLUSION

1. On June 27, 2003, South Park Telephone Company (Applicant) filed its Application for HCSM Support and Motion for Waiver of Certain Commission Rules Pertaining to HCSM Support (4 CCR 723-41-18.6.1.3 and 723-27-Part 2) (Application). The Application commenced this proceeding.

2. On July 1, 2003, the Commission gave public notice of the Application in its Notice of Application Filed (Notice). See Notice dated July 1, 2003. The Commission established a procedural schedule in that Notice. The undersigned Administrative Law Judge (ALJ) vacated that procedural schedule in Decision No. R03-0971-I.

3. On August 1, 2003, the Colorado Office of Consumer Counsel (OCC) filed its intervention by right. On August 22, 2003, Staff of the Commission (Staff) filed its intervention by right. There are no other intervenors.

4. The Commission deemed the Application complete as of August 15, 2003. On December 5, 2003, Applicant filed its Notice of Waiver of Statutory Time Limit for Commission Decision under Section 40-6-109.5, C.R.S.

5. On August 28, 2003, Applicant filed a Motion to Set Prehearing Conference and Vacate Schedule. The ALJ denied that motion as moot. *See* Decision No. R03-1078-I.

6. On September 16, 2003, the ALJ held a prehearing conference in this docket. By Decision No. R03-1078-I, the ALJ established a procedural schedule and scheduled hearing dates of December 9 and 10, 2003, in this docket.

7. On October 9, 2003, Applicant filed the Direct Testimony and Exhibits of Kevin J. Kelly.

8. On November 7, 2003, OCC filed the Answer Testimony and Exhibits of P.B. Schechter.

9. On November 7, 2003, Staff filed the Answer Testimony of John P. Trogonoski and of Warren L. Wendling.

10. On November 25, 2003, Applicant filed a Motion to Vacate Procedural Schedule. By Decision No. R03-1322-I, the ALJ, *inter alia*, granted the motion and rescheduled the hearing to January 27 and 28, 2004.

11. On January 8, 2004, Applicant filed its Motion to Withdraw Application (Motion). In that Motion Applicant requests that the Commission grant the motion, permit Applicant to withdraw its Application, vacate the procedural schedule and hearing dates, and waive response time. Applicant states that neither Staff nor OCC objects to the granting of the Motion.

12. The ALJ finds and concludes that the Motion states good cause, that granting the request will not prejudice any party, and that the Motion will be granted. The Application will be dismissed without prejudice. The hearing scheduled for January 27 and 28, 2004, will be vacated. The procedural schedule established by Decision No. R03-1322-I will be vacated. Docket No. 03A-277T will be closed.

13. In view of the nature of the Motion and given that no party objects to the granting of the Motion, response time to the Motion will be waived.

14. In accordance with § 40-6-109, C.R.S., the ALJ recommends that the Commission enter the following order.

II. ORDER

A. The Commission Orders That:

1. South Park Telephone Company's Motion to Withdraw Application is granted.
2. The Application for HCSM Support and Motion for Waiver of Certain Commission Rules Pertaining to HCSM Support (4 CCR 723-41-18.6.1.3 and 723-27-Part 2) filed by South Park Telephone Company is dismissed without prejudice.
3. The hearing scheduled for January 27 and 28, 2004, is vacated.
4. The procedural schedule established in Decision No. R03-1322-I is vacated.
5. Response time to the Motion to Withdraw Application is waived.
6. Docket No. 03A-277T is closed.

7. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

8. As provided by § 40-6-106, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

a) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the recommended decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

b) If a party seeks to amend, modify, annul, or reverse a basic finding of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge; and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

9. If exceptions to this Recommended Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge