

Decision No. R04-0614-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-054T

IN THE MATTER OF THE APPLICATION FOR AUTHORITY TO EXECUTE A TRANSFER
OF COLORADO TELESERV, INC.

DOCKET NO. 04A-079T

IN THE MATTER OF THE APPLICATION OF FRANK RAMOGIDA HOLDINGS (CO),
INC., DOING BUSINESS AS ROCK SOLID BROADBAND, FOR A CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE LOCAL EXCHANGE
TELECOMMUNICATIONS SERVICES AND FOR A LETTER OF REGISTRATION TO
PROVIDE EMERGING COMPETITIVE TELECOMMUNICATIONS SERVICES.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
SETTING PREHEARING CONFERENCE
AND STATING QUESTIONS FOR DISCUSSION**

Mailed Date: June 8, 2004

I. STATEMENT

1. On February 3, 2004, Colorado Teleserv, Inc. (Teleserv), and Frank Ramogida Holdings (CO), Inc. (FRHC), filed an Application Requesting Authority to Execute a Transfer (Transfer Application). In the Transfer Application FRHC seeks Commission authority to purchase all of the issued and outstanding shares of stock of Teleserv. The Transfer Application commenced Docket No. 04A-054T (Transfer Proceeding). On March 24, 2004, Staff of the Commission (Staff) intervened of right and requested a hearing in the Transfer Proceeding. This is the only intervention in that proceeding.

2. On February 23, 2004, FRHC filed an Application for a Certificate of Public Convenience and Necessity to Provide Local Exchange Telecommunications Services and for a Letter of Registration to Provide Emerging Competitive Telecommunications Services (CPCN Application). The CPCN Application commenced Docket No. 04A-079T (CPCN Proceeding). On March 29, 2004, Staff intervened of right and requested a hearing in the CPCN Proceeding. This is the only intervention in that proceeding.

3. By Decision No. R04-0373-I, the undersigned Administrative Law Judge (ALJ) consolidated the Transfer Proceeding and the CPCN Proceeding, scheduled a hearing date, and established a procedural schedule in this consolidated matter. A final prehearing conference in the consolidated proceeding is scheduled for July 6, 2004; the hearing in this matter is scheduled for July 12, 2004. See Decision No. R04-0373-I.

4. By letter dated May 6, 2004, and sent to counsel for Staff, FRHC stated that it was “in the final stages of negotiating an agreement whereby FRHC would assign its Stock Purchase Agreement to [an] investment group and withdraw its application to acquire [Teleserv]. The investment group would file an application for the Transfer [sic] to it pending approval of its application for a CPCN.” FRHC further stated that it would “file the motion to withdraw” its Transfer Application when the agreement with the investor group was final. This letter, signed by Mr. Robert Bowen, was placed in the Commission file in the Transfer Docket.

5. On May 21, 2004, FRHC filed the direct testimony of Mr. Robert Bowen. This testimony does not mention an agreement with an investor group; rather, the testimony (at ¶ 10) states Mr. Bowen’s belief that FRHC has “demonstrated fitness for a CPCN and to own all or part of Colorado Teleserv, Inc.”

6. On April 29, 2004, LecLink, Inc., filed an Application for a Certificate of Public Convenience and Necessity to Provide Local Exchange Telecommunications Services and for a Letter of Registration to Provide Emerging Competitive Telecommunications Services (LecLink Application). See Docket No. 04A-213T. By a letter dated May 20, 2004, at 1, LecLink described its application as follows: “LecLink was formed with the intention of acquiring the shares of Colorado TeleServe, Inc. LecLink has entered into an agreement with FRHC, Inc. under the terms of which FRHC, Inc. will transfer its rights to acquire the stock of Colorado TeleServe, Inc. to LecLink. It is LecLink’s intention, once the Certificate of Public Convenience and Necessity [sought in Docket No. 04A-213T] is granted, to file an application with the Commission to acquire the stock of Colorado TeleServe, Inc.” LecLink also stated: “Colorado TeleServe, Inc. has an interconnection agreement in place. When LecLink acquires Colorado TeleServe, Inc., it plans to use this agreement.” *Id.* at 2.

7. In light of the foregoing statements made by Mr. Bowen and by LecLink, the ALJ will order a prehearing conference to be held on June 14, 2004, in order to address the following questions:¹

(a) What, if anything, is the connection between the LecLink Application and the Transfer Application?

(b) Assuming there is a connection between the Transfer Application and the LecLink Application (for example, they address the same stock in the same company), does FRHC intend to proceed with the Transfer Application? If so, why? If not, when will FRHC

¹ By an Order entered in the LecLink Application, the ALJ will order the parties in that docket to appear on the same date and at the same time to address the questions raised. Thus, all the parties in the three dockets will be before the ALJ to discuss these issues.

withdraw the Transfer Application? If the Transfer Application is withdrawn, does that affect (and, if so, how does it affect) the existing procedural schedule and hearing date in the consolidated matter?

(c) Assuming there is a connection between the Transfer Application and the LecLink Application (for example, they address the same stock in the same company), would there be any benefit (or detriment) to consolidating the LecLink Application with the pending two matters? If so, what would the benefits be? the detriments?

(d) Assuming a consolidation were to occur, would it be necessary to develop a new procedural schedule and/or new hearing date to accommodate such a consolidation? If a new procedural schedule and/or new hearing dates were necessary, what should that procedural schedule and/or that hearing date be?

8. In addition to the questions posed in ¶ I.8, the ALJ may have more questions. The parties may, and should, raise issues of concern to them.

II. ORDER

A. It Is Ordered That:

1. A prehearing conference in this docket is scheduled as follows:

DATE: June 14, 2004

TIME: 9:00 a.m.

PLACE: Commission Hearing Room
1580 Logan Street, OL2
Denver, Colorado

2. The parties shall be prepared to discuss the matters set forth above.

3. This Order is effective immediately.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge