

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-356AT

IN THE MATTER OF THE APPLICATION OF PREMIER COMMUNICATIONS, INC. TO
DISCONTINUE OR CURTAIL JURISDICTIONAL TELECOMMUNICATIONS SERVICE.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
FINDING APPLICATION COMPLETE,
SHORTENING TIME FOR STAFF
INTERVENTION, VACATING PROCEDURAL
SCHEDULE, SETTING PREHEARING
CONFERENCE, AND LISTING
ISSUES FOR DISCUSSION**

Mailed Date: July 20, 2004

I. STATEMENT

1. On July 8, 2004, Premier Communications, Inc. (Premier or Applicant), filed an Application to Discontinue or Curtail Jurisdictional Telecommunications Service (Application) in Colorado. The proposed effective date of the discontinuance of the telecommunications services provided by Premier is September 10, 2004. Applicant did not file testimony and exhibits with the Application. The Application commenced this proceeding.

2. The Commission issued a Notice of Application Filed (Notice) on July 9, 2004. This Notice was subsequently amended to shorten the intervention period, and interventions are due on or before July 26, 2004. See Amended Notice of Application Filed, dated July 15, 2004; Decision No. C04-0783.

3. In the Notice, the Commission established a procedural schedule in this proceeding. This Order will vacate that procedural schedule.

4. On July 14, 2004, the Colorado Office of Consumer Counsel (OCC) intervened in this proceeding of right and requested a hearing.

5. On July 15, 2004, by Decision No. C04-0783, the Commission designated Qwest Corporation (Qwest), which is the wholesale provider to Premier, an indispensable party in this docket. The Commission also directed Qwest to file a notice with the Commission in this docket at least ten days prior to initiation of disconnection of Premier services.

6. In that same Order, the Commission assigned this proceeding to an administrative law judge for expedited hearing. This matter is assigned to the undersigned Administrative Law Judge (ALJ).

7. To implement the Commission's order that this case be heard on an expedited basis, and in view of the rapidly-approaching discontinuance date of September 10, 2004, the ALJ will find the Application to be complete.¹

8. In light of the finding of completeness, the intervention of Staff of the Commission (Staff) normally would be due ten days from the date of this Order. To expedite this matter, however, Staff's intervention period will be shortened to five calendar days from the date of this Order (*i.e.*, to and including **July 26, 2004**). Thus, Staff's intervention will be due at the end of the intervention period established by the Commission in Decision No. C04-0783.

¹ At present, the Commission file in this matter does not contain the affidavit and related forms of notice required by Rule 4 *Code of Colorado Regulations* (CCR) 723-25-7.8. See also Rule 4 CCR 723-25-7.6. This is not surprising because Rule 4 CCR 723-25-7.8 provides that an applicant must file the affidavit and forms of notice "not less than 15 days before the date of the proposed discontinuance or curtailment." In this case the last day for filing the affidavit is **August 27, 2004** (absent further Order). In addition, Rule 4 CCR 723-25-7.5 requires Applicant to provide notice to each affected customer, and to others, "[a]t least 30 days prior to the effective date of the proposed discontinuance or curtailment." Thus, Applicant must mail the notices on or before **August 12, 2004** (absent further Order). Applicant is reminded that it need not wait until the last day to mail the notices or to file the affidavit and forms of notice. Further, Applicant is reminded that the affidavit and forms of notice are required elements of Applicant's proof in this matter; in other words, in order for the Application to be granted, Applicant must prove that it timely met the two notice-related requirements (in addition to any other pertinent elements contained in Rule 4 CCR 723-25).

9. It is necessary to schedule a hearing and to establish a procedural schedule in this matter. To do so, a prehearing conference will be held on **July 30, 2004**. The provisions of Rule 4 *Code of Colorado Regulations* (CCR) 723-1-79(b)(3) and Rule 4 CCR 723-1-79(b)(4) govern this prehearing conference.

10. The parties should be prepared to discuss the following matters at the prehearing conference: (a) date by which Applicant will file its list of witnesses, summaries of testimony, and exhibits;² (b) date by which each Intervenor will file its list of witnesses, summaries of testimony, and exhibits; (c) date by which Applicant will file its list of rebuttal witnesses, summaries of testimony, and exhibits; (d) date by which each party will file prehearing motions; (e) date by which the parties will file any stipulation reached; (f) hearing date; and (g) date for oral post-hearing statements of position, assuming such statements are necessary. In addition, the parties should be prepared to discuss any matters pertaining to discovery if the procedures of Rule 4 CCR 723-1-77 are not sufficient.³ Further, the parties should review, and be prepared to discuss to the extent relevant, the matters contained in Rule 4 CCR 723-1-79(b)(5). Finally, any party may raise any additional issue.

11. In considering proposed dates, parties should keep in mind that the Applicant seeks permission to discontinue service on September 10, 2004, and the Commission has directed that this Application receive an expedited hearing.⁴

² In view of the expedited treatment, each party must file at least a list of witnesses, a detailed summary of each witness's testimony, and copies of exhibits. If it wishes to do so, a party may (but need not) file testimony in question and answer format.

³ Given the expedited nature of this proceeding, the parties may wish to discuss shortened response time to discovery.

⁴ The ALJ will issue a recommended decision in this matter, and the possibility exists that one or more parties will take exception to the recommended decision. If exceptions are taken, it is extremely unlikely that a Commission decision in this proceeding will issue on or before September 10, 2004. See § 40-6-113, C.R.S.; Rule 4 CCR 723-1-92.

12. The parties are advised that the **ALJ is not available** on August 16 through 19, and 25, 2004 through and including September 27, 2004.

13. The ALJ expects the parties to come to the prehearing conference with proposed dates for all deadlines. In addition, the parties must consult prior to the prehearing conference with respect to the listed matters. Finally, the parties are encouraged to present, if possible, a procedural schedule and hearing date(s) which are satisfactory to both parties.

II. ORDER

A. It Is Ordered That:

1. The Application to Discontinue or Curtail Jurisdictional Telecommunications Service is found to be complete as of the date of this Order.

2. The time for Staff of the Commission to file its intervention in this matter is shortened to and including **July 26, 2004**.

3. The procedural schedule established in the Notice of Application Filed, dated July 9, 2004, and in the Amended Notice of Application Filed, dated July 15, 2004, is vacated.

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

DATE: July 30, 2004

TIME: 10:00 a.m.

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

5. The parties must be prepared to discuss the matters set forth above.

6. This Order is effective immediately.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge

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