

Decision No. R04-0842-I

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

DOCKET NO. 04A-213T

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IN THE MATTER OF THE APPLICATION OF LECLINK, INC., 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.

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**INTERIM ORDER OF  
ADMINISTRATIVE LAW JUDGE  
MANA L. JENNINGS-FADER  
GRANTING JOINT MOTION IN PART,  
VACATING PROCEDURAL SCHEDULE,  
VACATING AND RESCHEDULING HEARING  
DATE, AND WAIVING RESPONSE TIME**

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Mailed Date: July 22, 2004

**I. STATEMENT**

1. On April 29, 2004, LecLink, Inc. (LecLink or Applicant), 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 (Application). The Application commenced this docket.

2. The Commission gave public notice of the Application. *See* Posting of Application Filed, dated April 30, 2004. Staff of the Commission (Staff) timely intervened. This is the only intervention in this proceeding.

3. By Decision No. R04-0745-I, as modified by Decision No. R04-0792-I, the undersigned Administrative Law Judge (ALJ) established a procedural schedule and scheduled the hearing in this matter.

4. On July 20, 2004, Applicant and Staff filed a Joint Motion to Approve Stipulation and Settlement Agreement, Vacate Remaining Procedural Schedule, Waive Response Time, and Close Docket (Joint Motion). A Stipulation and Settlement Agreement (Stipulation) accompanied that joint motion.

5. The Joint Motion -- insofar as it requests that the Commission vacate the remaining procedural schedule, including the hearing scheduled for October 5, 2004 -- states good cause, and granting the motion will not prejudice any party. That portion of the Joint Motion will be granted. The procedural schedule and hearing date established in Decisions No. R04-0745-I and No. R04-0792-I will be vacated.

6. The portions of the Joint Motion requesting that the Commission accept the Stipulation and close this docket will be taken under advisement.

7. The ALJ has reviewed the Stipulation and has some questions for the parties. In addition, no party prefiled testimony in this matter; as a result, there is no evidentiary record for the Commission to use in assessing the Stipulation or in determining whether to grant the requested authority to Applicant. To have her questions addressed and to establish an evidentiary record, the ALJ will schedule an **August 6, 2004**, hearing in this matter. At the hearing each signatory must present a witness to explain the Stipulation; to respond to the ALJ's questions; and to provide an evidentiary basis for the Commission to use to assess the Stipulation and to determine whether to grant the Application.

8. To assist the parties in preparing for the hearing, the ALJ provides her questions:

a. How does Applicant come within the ambit of § 40-15-503.5, C.R.S., so as to warrant imposition of a bond or surety requirement? In responding to this question, the parties should provide specific information which addresses each of the criteria listed in the statute. In

addition, the parties should be prepared to discuss, and to distinguish if possible, Commission Decision No. C03-1029 (entered in Docket No. 03A-105T), in which the Commission refused to impose a bond requirement.

b. Exhibit A to the Stipulation shows a specific percentage for the Fixed Utilities Fund (1.466 percent of intrastate revenue) and the Colorado High Cost Support Mechanism (2 percent of revenues) and a specific amount per line per month for the 911 Fund (\$0.50), the Low Income Telephone Assistance Program (\$0.12), the Telecommunications Relay Service Fund (\$0.06), and PUC Administrative Costs (under specific circumstances, \$1.62). When a recalculation is made pursuant to ¶ 7 of the Stipulation, are these percentages or costs-per-line shown on Exhibit A fixed over the three-year term of the required bond? Do these charges change when the Commission changes them (for example, on an annual basis)? If the parties intend these charges to change over the three year period, what is the impact (if any) on the calculation of the bond amount? If these charges are to remain fixed, why are they fixed? If they are to remain fixed although a per-line charge (for example) may change each year, how does the bond assure payment into the listed funds and programs of the full amount due?

c. Are the filing requirements contained in ¶ 15 of the Stipulation broader or more extensive than the filing requirements contained in Rule 4 *Code of Colorado Regulations* (CCR) 723-25-7.2? If they are, what is the basis for these additional requirements (*i.e.*, why are they necessary for Applicant; what purpose do they serve)?

d. What is the basis for the notice requirement found in ¶ 18 of the Stipulation (*i.e.*, why is it necessary for Applicant; what purpose does it serve)?

e. What is the basis for the reporting requirement found in ¶ 20 of the Stipulation (*i.e.*, why is it necessary for Applicant; what purpose does it serve)?

f. How are ¶ 21 of the Stipulation (the certificate of public convenience and necessity (CPCN) is rendered null and void “[i]n the event LecLink fails to perform any of the obligations set forth” in the Stipulation) and ¶ 14 of the Stipulation (show cause process for, among other things, a determination of “whether the Commission should take action against LecLink’s CPCN”) related, if they are? As these provisions appear to be contradictory, which prevails and in what circumstances?

g. Does ¶ 21 of the Stipulation mean that the LecLink CPCN is null and void without any proceeding before the Commission? without any Commission decision? If so, how do the Commission, Applicant, and any wholesale provider of services to Applicant know that the CPCN is no longer in effect and the date on which it was rendered null and void? What does this paragraph mean with respect to discontinuance of service to any existing LecLink customers? Explain the interaction of this provision with the requirements of Rule 4 CCR 723-25 re: discontinuance of service.

h. Applicant should provide evidence (testimonial, documentary, or both) establishing that it is financially and operationally qualified to obtain a CPCN and to provide jurisdictional telecommunications services in Colorado.

9. The parties must present testimony at the hearing to address the questions and areas set out. The ALJ may have additional questions at the hearing.

10. The parties also jointly move to waive response time. As both parties join in the motion to vacate the procedural schedule, waiving response time will not prejudice any party. The Joint Motion to Waive Response Time to the motion to vacate the procedural schedule will be granted.

**II. ORDER**

**A. It Is Ordered That:**

1. The Joint Motion to Vacate Remaining Procedural Schedule is granted.
2. The procedural schedule established in Decisions No. 04R-0745-I and No. 04R-0792-I is vacated.
3. The hearing in this matter scheduled for October 5, 2004, is vacated.
4. Hearing in this matter will be conducted on the following date, at the following time, and in the following location:

DATE: August 6, 2004  
TIME: 9:00 a.m.  
PLACE: Commission hearing Room  
1580 Logan Street, OL2  
Denver, Colorado

5. At the hearing the parties shall present testimony in support of the Application and of the Stipulation and Settlement Agreement and shall respond to the questions and address the areas set forth above.
6. The Joint Motion to Waive Response Time is granted.
7. Response time to the Joint Motion to Modify Procedural Schedule is waived.
8. This Order is effective immediately.

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

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Administrative Law Judge