

Decision No. R04-1389-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04M-221T

IN THE MATTER OF P C TELCOM'S PETITION FOR SUSPENSION OF LNP
REQUIREMENTS.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
DALE E. ISLEY
GRANTING MOTION TO APPROVE
SETTLEMENT AGREEMENT AND
DENYING MOTION FOR PARTIAL STAY**

Mailed Date: December 9, 2004

I. STATEMENT

1. The captioned proceeding was commenced on May 3, 2004, when Phillips County Telephone Company (PC Telecom) filed a Combined Petition for Suspension and Motion for Expedited Treatment and Waiver of Response Time (Petition) requesting that the Commission temporarily suspend its wireline to wireless local number portability (LNP) obligations until November 24, 2004.

2. The Colorado Public Utilities Commission (Commission) granted the Petition on June 11, 2004. *See*, Decision No. C04-0630.

3. On September 22, 2004, PC Telecom filed a Motion to Reopen the Record (Motion to Reopen) to request a further suspension until November 24, 2005.

4. On September 28, 2004, N.E. Colorado Cellular, Inc., doing business as Viaero (NECC) filed a Motion to Intervene and Request for Hearing (Motion to Intervene). The Commission granted the Motion to Reopen and the Motion to Intervene on October 15, 2004,

and assigned the matter to the undersigned administrative law judge (ALJ) for hearing on an expedited basis. *See*, Decision No. C04-1213.

5. A pre-hearing conference was held on November 15, 2004. *See*, Decision No. R04-1314-I. On November 17, 2004, the ALJ issued Decision No. R04-1354-I setting the matter for hearing on December 14, 2004, and establishing a procedural schedule. That decision also denied the request of PC Telecom for a temporary extension of the LNP suspension period previously granted to it by the Commission in Decision No. C04-0630 pending issuance of an administratively final decision in this proceeding.

6. On November 19, 2004, PC Telecom filed a Combined Motion for Partial Stay and for Waiver of Response Time (Motion for Stay). The Motion for Stay sought reconsideration of that portion of Decision No. R04-1354-I denying PC Telecom's request for a temporary extension of the LNP suspension period pending. On November 22, 2004, NECC filed its Response to the Motion for Stay.

7. On November 23, 2004, counsel for the parties informally advised the ALJ of their agreement to settle the case and described the terms of such settlement. The ALJ informally advised counsel at that time of his intention to approve the same.

8. On December 2, 2004, PC Telecom and NECC filed their Unopposed Joint Motion for Approval of Stipulation, and to Vacate Hearing Date (Motion). The Motion requests approval of a Stipulation and Settlement Agreement (Stipulation) between the parties and vacation of the balance of the procedural schedule governing this case. A copy of the Stipulation is attached to the Motion.

9. Under the terms of the Stipulation, the parties have agreed that PC Telecom's suspension waiver for LNP compliance will be extended from November 24, 2004, to and

including January 14, 2005. Commencing on that date, PC Telecom will be LNP compliant pursuant to applicable Federal Communications Commission orders and, further, any requested PC Telecom to NECC “port” will be processed within four business days. In addition, PC Telecom agrees that it will not seek any further LNP waiver beyond January 14, 2005, and that it will provide NECC with biweekly progress reports concerning steps it is taking to become LNP compliant. The parties believe that the Stipulation is a fair settlement of the issues raised in this docket and is in the public interest.

10. Finally, the parties request in the Stipulation that this docket remain open beyond the January 14, 2005, waiver suspension expiration date and that it be made subject to closure based upon a joint motion of the parties to be filed sometime after January 14, 2005.

11. The ALJ finds the Stipulation to be just and reasonable and in the public interest. Accordingly, the Motion will be granted and the Stipulation will be approved. Approval of the Motion renders the Motion for Stay moot. As a result, the Motion for Stay will be denied for that reason.

12. The parties are directed to submit either the motion contemplated by paragraph 15 of the Stipulation or a joint report concerning the procedural status of this proceeding on or before February 14, 2005. Submission of the motion contemplated by paragraph 15 of the Stipulation will result in the issuance of a recommended decision formally closing this docket.

II. ORDER

A. It Is Ordered That:

1. The Unopposed Joint Motion for Approval of Stipulation, and to Vacate Hearing Date filed by Phillips County Telephone Company and N.E. Colorado Cellular, Inc., doing business as Viaero, on December 2, 2004, is granted.

2. The Stipulation and Settlement Agreement filed by Phillips County Telephone Company and N.E. Colorado Cellular, Inc., doing business as Viaero, on December 2, 2004, is accepted and approved. The Stipulation and Settlement Agreement, a copy of which is attached hereto as Appendix A, is incorporated into this Order as is fully set forth herein.

3. The hearing of this matter, currently scheduled for December 14, 2004, is vacated.

4. The procedural schedule established in this matter by Decision No. R04-1354-I is vacated.

5. On or before February 14, 2005, Phillips County Telephone Company and N.E. Colorado Cellular, Inc., doing business as Viaero, shall submit either the motion contemplated by paragraph 15 of the Stipulation and Settlement Agreement or a joint report concerning the procedural status of this proceeding.

6. The Combined Motion for Partial Stay and for Waiver of Response Time filed by Phillips County Telephone Company on November 19, 2004, is denied as moot.

7. This Order shall be effective immediately.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge

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