

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-508T

IN THE MATTER OF THE APPLICATION OF SC TXLINK, LLC, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
GRANTING UNOPPOSED MOTION,
VACATING PREHEARING CONFERENCE,
SETTING HEARING DATE, ESTABLISHING
PROCEDURAL SCHEDULE, SHORTENING
RESPONSE TIME TO CERTAIN MOTIONS,
AND WAIVING RESPONSE TIME**

Mailed Date: December 3, 2004

I. STATEMENT

1. On October 7, 2004, SC TxLink, LLC (Applicant), filed an Application for a Certificate of Public Convenience and Necessity to Provide Local Exchange Telecommunications Services (Application). The Application commenced this docket.

2. The Commission gave public notice of the Application. Posting of Application Filed, dated October 12, 2004. On November 22, 2004, Staff of the Commission (Staff) filed its intervention of right and request for hearing. This is the only intervention.

3. The Commission deemed the Application complete as of November 16, 2004.

4. By Decision No. R04-1390-I the undersigned Administrative Law Judge (ALJ), to whom this matter is assigned, scheduled a prehearing conference to be held on December 7, 2004 for the purpose of establishing a procedural schedule and setting a hearing date.

5. On December 2, 2004, Staff filed an Unopposed Motion to Vacate Prehearing Scheduling Conference [Motion to Vacate] and Motion for Approval of Procedural Schedule [Motion for Approval] and for Waiver of Response Time [Motion for Waiver]. In that filing Staff states that the two parties in this proceeding have agreed to the proposed procedural schedule contained in the Motion for Approval and, therefore, that the December 7, 2004, prehearing conference is unnecessary (assuming that the ALJ accepts the proposed schedule). Staff further represents that Applicant does not oppose the Motion for Waiver.

6. The ALJ has reviewed the proposed procedural schedule and finds that it will allow the Commission to issue its decision in this matter within the statutory timeframe established in § 40-6-109.5, C.R.S. (*i.e.*, decision to issue on or before June 14, 2005). As a result, the ALJ finds that the Motion for Approval and the Motion to Vacate state good cause. As both requests are unopposed, no party will be prejudiced if these Motions are granted. The Motion to Vacate will be granted, and the prehearing conference scheduled for December 7, 2004 will be vacated. The Motion for Approval will be granted, and the procedural schedule set out in the filing will be adopted.

7. The following procedural schedule will apply in this matter: (a) on or before **January 14, 2005**,¹ Applicant will file its direct testimony² and exhibits; (b) on or before **January 31, 2005**, Staff will file its answer testimony and exhibits; (c) on or before **February 10, 2005**, Applicant will file its rebuttal testimony and exhibits; (d) on or before **March 1, 2005**, each party will file its corrected testimony and exhibits; (e) on or before

¹ The Motion for Approval shows this date as January 15, 2005; but that date is a Saturday.

² Testimony is filed in question and answer format.

March 15, 2005, each party will file its prehearing motions;³ (f) a final prehearing conference will be held on **March 25, 2005**; (g) on or before **March 30, 2005**, the parties will file any stipulation reached; (h) hearing will be held on **April 7, 2005**; and (i) on or before **April 27, 2005**, each party will file its post-hearing statement of position to which (absent further Order) no response will be permitted.

8. Response to a prehearing motion is due on or before **noon on March 24, 2005**. A copy of the response must be hand-delivered to the office of the ALJ when the response is filed with the Commission. This requirement does not reduce the number of copies which must be filed with the Commission.

9. Should a party believe that the scheduled prehearing conference is not necessary, the party must file a motion to vacate the prehearing conference on or before **noon on March 23, 2005**. A copy of a motion to vacate the prehearing conference must be hand-delivered to the office of the ALJ when the motion is filed with the Commission. This requirement does not reduce the number of copies which must be filed with the Commission.

10. The provisions of Rule 4 *Code of Colorado Regulations* (CCR) 723-1-77 govern this proceeding *except that* for discovery addressed to direct testimony and exhibits, for discovery addressed to direct testimony and exhibits, and for discovery addressed to rebuttal testimony and exhibits, responses and objections will be due within five calendar days of receipt.

11. These are the cut-off dates for discovery (meaning the last day on which discovery can be served): **January 30, 2005** for discovery addressed to direct testimony and

³ Response time will be shortened to **noon on March 24, 2005**. This will permit consideration of any prehearing motions at the scheduled prehearing conference.

exhibits; **February 10, 2005** for discovery addressed to answer testimony and exhibits; and **March 20, 2005** for discovery addressed to rebuttal testimony and exhibits.

12. Discovery requests and responses are not to be filed with the Commission and are not to be served on the Commission advisors (including Commission counsel) identified by Staff in the Rule 9(d) Notice filed by Staff in this proceeding.

13. Parties are reminded of Rule 4 CCR 723-1-22(d)(3), which states: "If a pleading refers to new court cases or other authorities not readily available to the Commission, six copies of each case or other authority shall be filed with the pleading." If a party wishes the ALJ to consider a cited authority *other than* an opinion of the United States Supreme Court, a reported Colorado state court opinion, or a Commission decision, the party must provide a copy of, or a website address for, that cited authority.

14. The parties and their witnesses shall provide the decision number when referring to or citing a Commission decision.

15. The Motion for Waiver states good cause; no party will be prejudiced by granting it. The Motion for Waiver will be granted. Response to the Motion to Vacate and to the Motion for Approval will be waived.

II. ORDER

A. It Is Ordered That:

1. The Unopposed Motion to Vacate Prehearing Scheduling Conference and Motion for Approval of Procedural Schedule are granted.

2. The prehearing conference scheduled for December 7, 2004 is vacated.

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

DATE: March 25, 2005
TIME: 9:00 a.m.
PLACE: Commission Hearing Room
1580 Logan Street, OL2
Denver, Colorado

4. Hearing in this matter is scheduled at the following date, time, and place:

DATE: April 7, 2005
TIME: 9:00 a.m.
PLACE: Commission Hearing Room
1580 Logan Street, OL2
Denver, Colorado

5. The following procedural schedule is adopted: (a) on or before January 14, 2005, Applicant SC TxLink, LLC shall file its direct testimony and exhibits; (b) on or before January 31, 2005, Staff of the Commission shall file its answer testimony and exhibits; (c) on or before February 10, 2005, Applicant shall file its rebuttal testimony and exhibits; (d) on or before March 1, 2005, each party shall file its corrected testimony and exhibits; (e) on or before March 15, 2005, each party shall file its prehearing motions; (f) on or before March 30, 2005, the parties shall file any stipulation reached; and (g) on or before April 27, 2005, each party shall file its post-hearing statement of position to which (absent further Order) no response will be permitted.

6. The parties shall follow the procedures and make the filings as set forth above.

7. The Unopposed Motion for Waiver of Response Time is granted.

8. Response time to the Unopposed Motion to Vacate Prehearing Scheduling Conference and Motion for Approval of Procedural Schedule is waived.

9. This Order is effective immediately.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge