

Decision No. R04-1553

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

DOCKET NO. 04A-504T

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IN THE MATTER OF THE PETITION OF VCI COMPANY, D/B/A VILAIRE, FOR  
DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER PROVIDING  
SERVICE TO CUSTOMERS UNDER THE COLORADO TELEPHONE ASSISTANCE PLAN.

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**RECOMMENDED DECISION OF  
ADMINISTRATIVE LAW JUDGE  
MANA L. JENNINGS-FADER  
GRANTING MOTION TO WITHDRAW  
PETITION, DISMISSING  
PETITION WITHOUT PREJUDICE,  
VACATING PREHEARING CONFERENCE,  
WAIVING RESPONSE TIME, AND  
CLOSING DOCKET**

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Mailed Date: December 27, 2004

**I. STATEMENT, FINDINGS, AND CONCLUSION**

1. On October 4, 2004, VCI Company, doing business as Vilare (Petitioner), filed its Petition for Designation as an Eligible Telecommunications Carrier (Petition). The Petition commenced this proceeding.

2. The Commission gave public notice of the Petition in its Notice of Petition Filed (Notice). *See* Notice dated October 12, 2004. The Commission established a procedural schedule in that Notice. The Administrative Law Judge (ALJ) vacated that procedural schedule in Decision No. R04-1476-I.

3. On November 2, 2004, the Colorado Office of Consumer Counsel (OCC) timely filed its intervention by right. In that filing OCC requested a hearing on the Petition.

4. On November 10, 2004, Petitioner filed an Amended Petition for Designation as an Eligible Telecommunications Carrier. *See also* Petition for Designation as an Eligible Telecommunications Carrier filed on December 22, 2004.

5. By Decision No. C04-1398 the Commission granted the OCC's request for a hearing, referred this docket to an ALJ, and deemed the Petition complete.

6. On December 9, 2004, Staff of the Commission (Staff) timely filed its intervention by right. OCC and Staff are the only intervenors in this matter.

7. By Decision No. R04-1476-I the ALJ scheduled a prehearing conference in this proceeding. By this Order the prehearing conference will be vacated.

8. On December 22, 2004, Petitioner filed its Motion for Withdrawal of Application without Prejudice (Motion). In that Motion Petitioner requests that the Commission grant the motion and permit Petitioner to withdraw its Petition without prejudice. Petitioner states that there is no opposition to the Motion.

9. The ALJ finds and concludes that the Motion states good cause, that granting the request will not prejudice any party, and that the Motion will be granted. The Petition will be dismissed without prejudice. Docket No. 04A-504T will be closed.

10. In view of the nature of the Motion and given that there is no objection to the Motion, response time to the Motion will be waived.

11. In accordance with § 40-6-109, C.R.S., the ALJ recommends that the Commission enter the following order.

**II. ORDER****A. The Commission Orders That:**

1. The Motion for Withdrawal of Application without Prejudice is granted.
2. The Petition for Designation as an Eligible Telecommunications Carrier filed by VCI Company, doing business as Vilaire, is dismissed without prejudice.
3. The prehearing conference scheduled for December 28, 2004, is vacated.
4. Response time to the Motion for Withdrawal of Application without Prejudice is waived.
5. Docket No. 04A-504T is closed.
6. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.
7. As provided by § 40-6-106, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.
  - a) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the recommended decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.
  - b) If a party seeks to amend, modify, annul, or reverse a basic finding of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the

administrative law judge; and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

8. If exceptions to this Recommended Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

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Administrative Law Judge