

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 13A-1337T

IN THE MATTER OF THE APPLICATION OF SAGE TELECOM COMMUNICATIONS, LLC
FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER IN THE
STATE OF COLORADO FOR THE PURPOSE OF OFFERING WIRELESS LIFELINE
SERVICE.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
VACATING PROCEDURAL SCHEDULE AND
SCHEDULING PREHEARING CONFERENCE**

Mailed Date: February 7, 2014

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I. STATEMENT, FINDINGS, AND CONCLUSIONS

1. On December 18, 2013, Sage Telecom Communications LLC (Applicant or Sage) filed an Application for Designation as an Eligible Telecommunications Carrier in the State of Colorado for the Limited Purpose of Offering Wireless Lifeline Service (Application).

2. The Commission gave public Notice of the Application on December 24, 2013. The Notice requires that any party wishing to intervene must file its intervention within 30 days after the date of the Notice. Consequently, interventions were due by January 23, 2014.

3. The Notice also requires that Applicant file testimony and exhibits within 60 days of the Application and that any intervening party file testimony and exhibits within 45 days of Applicant's filing its testimony and exhibits. Based on this, Applicant's testimony and exhibits are due on February 18, 2014 and interveners' are due on April 4, 2014. This Decision will vacate and reschedule those deadlines.

4. On January 17, 2014, the Colorado Office of Consumer Counsel (the OCC) filed a "Notice of Intervention of Right, Entry of Appearance and Request for Hearing." In that filing, OCC identifies issues that are of concern to it but does not state whether it supports, opposes, contests, or takes no position with respect to the Application. OCC is an intervenor and a party in this proceeding.

5. On January 27, 2014, Commission trial Staff (Staff) filed a Notice of Intervention as of Right, Entry of Appearance, and Notice Pursuant to Rules 1401 and 1007(a) and Request for Hearing (Intervention). In that filing, Staff identifies issues that are of concern to it but does not state whether it supports, opposes, contests, or takes no position with respect to the Application. In that filing, Staff also identified both litigation (testimonial) Staff and advisory Staff.

6. On January 29, 2014, by Minute Order, the Commission referred this matter to an Administrative Law Judge (ALJ) for disposition.

A. Application Complete and Time for Commission Decision.

7. When it filed the Application, Sage filed neither its direct testimony and complete copies of exhibits in support of the Application nor a detailed summary of its testimony and complete copies of exhibits in support of the Application.

8. On January 29, 2014, by Minute Order, the Commission deemed the Application to be complete within the meaning of § 40-6-109.5, C.R.S.

9. Pursuant to § 40-6-109.5(2), C.R.S., and absent an enlargement of time by the Commission or Applicant's waiver of § 40-6-109.5, C.R.S., a Commission decision on the Application should issue on or before 210 days from the date on which the Commission deemed the Application to be complete.¹ Thus, the Commission should issue its decision on the Application on or before **August 27, 2014**.

B. Prehearing Conference.

10. A prehearing conference is necessary to address the matters identified below and to establish a procedural schedule and evidentiary hearing date in this matter. The ALJ will schedule a prehearing conference in this matter to be held on **February 24, 2014**.

11. *At the prehearing conference*, OCC must be prepared to state whether it contests or opposes the Application.

12. *At the prehearing conference*, Staff must be prepared to state whether it contests or opposes the Application.

13. The remainder of the discussion concerning the prehearing conference assumes that OCC, Staff, or both either contest or oppose the Application.

¹ Pursuant to § 40-6-109.5(4), C.R.S., the Commission may extend the time for decision an additional 90 days upon a finding of extraordinary circumstances.

14. *At the prehearing conference*, the Parties must be prepared to discuss:

- date by which Applicant will file its direct testimony and exhibits;
- date by which each intervenor will file its answer testimony and exhibits;
- date by which Applicant will file its rebuttal testimony and exhibits;
- date by which each intervenor will file cross-answer testimony and exhibits;²
- date by which each party will file its corrected testimony and exhibits;
- date by which each party will file its prehearing motions;³
- whether a final prehearing conference is necessary and, if it is, the date for that prehearing conference;
- date by which the Parties will file any stipulation or settlement reached;⁴
- date(s) for the evidentiary hearing; and
- date by which each party will file its post-hearing statement of position, to which no response will be permitted.

15. In considering hearing dates, the Parties are reminded that, absent an enlargement of time or a waiver of § 40-6-109.5, C.R.S., the Commission decision in this matter should issue on or before August 27, 2014. To allow time for statements of position, recommended decision, exceptions, responses to exceptions, and a Commission decision on exceptions, the **evidentiary hearing must be concluded no later than May 22, 2014.**

16. *At the prehearing conference*, the Parties must be prepared to discuss any matter pertaining to discovery if the procedures and timeframes contained in Rule 1405⁴ CCR 723-1⁵ are not sufficient.

² Cross-answer testimony responds only to the answer testimony of another intervenor.

³ This date **must** be at least seven days before the final prehearing conference or, if there is no final prehearing conference, **must** be at least ten days before commencement of the hearing.

⁴ This date **must** be at least three business days before the first day of hearing.

⁵ This Rule is found in the Rules of Practice and Procedure, Part 1 of 4 *Code of Colorado Regulations* 723.

17. *At the prehearing conference*, the Parties must be prepared to discuss any matter pertaining to information claimed to be confidential if Rule 4 CCR 723-1-1100 is notadequate.

18. *At the prehearing conference*, a party may raise any additional issue.

19. The ALJ expects the Parties to come to the prehearing conference with proposed dates for the procedural schedule and evidentiary hearing. The Parties must consult prior to the prehearing conference with respect to the matters identified in this Decision and are encouraged to present, if possible, a procedural schedule and hearing date or dates that are satisfactory to all Parties. The ALJ will order Applicant to coordinate the discussions.

20. **The Parties are advised, and are on notice, that** the ALJ will deem a party's failure to attend or to participate in the prehearing conference to be a waiver of objection to the decisions or rulings made during, the procedural schedule established during, and the hearing date(s) and prehearing conference date scheduled as a result of the prehearing conference.

C. Out-of-State Counsel.

21. Rule 1201(a), 4 CCR 723-1, requires that Applicant be represented by counsel in this proceeding. The ALJ has issued a separate Decision addressing Applicant's representation. The ALJ has set a deadline of February 21, 2014 for Applicant to choose to make certain filings in an attempt to comply with Rule 1201(a). If issues relating to Applicant's representation are outstanding at the time of the February 24, 2014 prehearing conference, the parties should be prepared to address them at the prehearing conference.

D. Additional Advisements.

22. **The Parties are advised, and are on notice, that** they must be familiar with, and abide by, the Rules of Practice and Procedure, 4 CCR 723 Part 1⁶.

23. **The Parties are advised, and are on notice, that** they must be familiar with the Rules Governing Telecommunications Providers, Services, and Products, 4 CCR 723 Part 2.

24. **The Parties are advised, and are on notice, that** timely filing with the Commission means *receipt* by the Commission by 5:00 p.m. MST, on the due date. Thus, if a document is placed in the mail on the date on which the document is to be filed, then the document is *not* filed timely with the Commission.

25. **The Parties are advised, and are on notice, that** the Commission has an E-Filing System available. One may learn about, and may register to use, the E-Filing System at dora.colorado.gov/puc. Registering to use the E-Filing System is not mandatory.

II. ORDER**A. It Is Ordered That:**

1. The procedural schedule for filing testimony and exhibits established in the Notice of Application Filed dated December 24, 2013 is vacated.

2. A prehearing conference in this matter is scheduled as follows:

DATE: February 24, 2014
TIME: 1:00 p.m. MST
PLACE: Commission Hearing Room
1560 Broadway, Suite 250
Denver, Colorado

⁶ These Rules are available on-line at dora.colorado.gov/puc.

⁷ These Rules are available on-line at dora.colorado.gov/puc.

3. The matters identified above will be discussed at the prehearing conference. Those attending the prehearing conference must be prepared to discuss the matters identified above and must have authority to agree to a procedural schedule and evidentiary hearing date.

4. Any party so desiring may appear at the prehearing conference by telephone. **To appear by telephone, the party should dial (303) 869-0599 at the designated date and time.** Dialing this number will connect the party into the hearing room without further action.

5. Failure to attend or to participate in the prehearing conference shall be deemed a waiver of objection to the decisions and rulings made during, the procedural schedule established during, and the hearing date(s) and the prehearing date scheduled at the prehearing conference.

6. The Parties shall consult prior to the prehearing conference with respect to the matters discussed and identified above. Sage Telecom Communications LLC, shall coordinate the discussions.

7. The Parties shall be held to the advisements in this Decision.

8. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director