

Decision No. R14-0306

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14F-0119T

BIJOU NO.2 LATERAL COMPANY,

COMPLAINANT,

V.

CENTURYLINK,

RESPONDENT.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
ROBERT I. GARVEY
GRANTING MOTION TO DISMISS
FORMAL COMPLAINT, VACATING
HEARING, AND CLOSING PROCEEDING**

Mailed Date: March 20, 2014

I. STATEMENT

1. On February 5, 2014, Bijou No. 2 Lateral Company (Bijou or Complainant) filed a Complaint against CenturyLink¹ (Respondent). Bijou requested that the Commission intervene and facilitate further discussions concerning a dispute between Bijou and CenturyLink.

2. On February 11, 2014, the Commission issued an Order to Satisfy or Answer and set the Proceeding for a hearing to be held upon March 24, 2014.

¹ The Complaint identified the Respondent as CenturyLink, but the appropriate legal name of the party in interest is Qwest Corporation, doing business as CenturyLink QC.

3. On February 13, 2014, the Commission referred the above captioned proceeding to an Administrative Law Judge (ALJ).

4. On March 3, 2014, CenturyLink filed its Motion to Dismiss, or in the Alternative, Answer (Motion). As grounds for the Motion, CenturyLink argues that the Commission is without jurisdiction to grant the relief requested by Bijou.

5. On March 17, 2014, Counsel for the Complainant filed his Entry of Appearance and Response to Motion to Dismiss (Response). In its Response, Bijou states that it also does not believe that the relief requested is within the jurisdiction of the Commission and therefore does not object to the granting of the Motion to Dismiss.

6. The Motion being unopposed, the ALJ finds good cause to grant the Motion.

II. ORDER

A. The Commission Orders That:

1. The Motion to Dismiss filed by CenturyLink on March 3, 2014 is granted.
2. The Formal Complaint filed by Bijou No. 2 Lateral Company against CenturyLink is dismissed.
3. The evidentiary hearing scheduled for March 24, 2014 is vacated.
4. Proceeding No. 14F-0119T is now closed.
5. 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.
6. 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.

7. 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.

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT I. GARVEY

Administrative Law Judge