

Decision No. R14-1196-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14F-0868T

SAN ISABEL TELECOM, INC.,

COMPLAINANT,

V.

CENTURYTEL OF EAGLE, INC. DOING BUSINESS AS CENTURYLINK,

RESPONDENT.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
PAUL C. GOMEZ
STAYING PROCEEDING; VACATING HEARING;
TEMPORARILY ENJOINING RESPONDENT
FROM SUSPENDING SERVICE ORDERS AND
DISCONNECTING COMPLAINANT FROM THE PUBLIC
SWITCHED NETWORK; AND ORDERING
CLARIFICATION FROM COMPLAINANT**

Mailed Date: October 1, 2014

I. STATEMENT

1. On August 18, 2014, San Isabel Telecom, Inc. (Complainant) filed a pleading captioned as an “Informal Complaint” with the Commission. The pleading listed San Isabel Telecom, Inc. as “Complainant,” and CenturyLink and CenturyTel of Eagle as “Respondents.” Complainant explains that Respondents sent Complainant a letter requesting an \$81,000 security deposit. If payment is not made as requested, Complainant asserts that Respondent intends to

suspend all service order activity for Complainant.¹ Complainant provides no claim for specific relief in the Formal Complaint.

2. Complainant asserts that pursuant to the Statement of Generally Available Terms and Conditions (SGAT) entered into between Complainant and Respondent, even though Complainant was late on two payments to Respondent within a 12-month period, according to the terms of the SGAT, Complainant is not considered repeated delinquent and as such, Respondent has no basis for requiring Complainant to pay a security deposit.

3. Complainant further states that the letter is written as an informal complaint because Respondent's billing group in Monroe, Louisiana refuses to discuss the procedure used to require a substantial deposit from Complainant.

4. Complaint asserts two issues to be resolved. The first issue is whether the SGAT or Respondent's interstate tariff controls determining the deposit amount, since each document contains different policies.

5. The second issue raised by Complainant is whether CenturyTel of Eagle is a part of CenturyLink when determining how the deposit is determined or whether each is a separate entity with separate deposit policies.

6. On August 19, 2014, the Commission Director issued an Order to Satisfy (Order) and Answer to Respondent, requiring Respondent to satisfy the matters in the Complaint or answer the Complaint in writing within 20 days from service of the Order. In addition, a hearing on the Complaint was scheduled for October 30, 2014.

¹ Complainant attached a letter from Respondent dated August 11, 2014 purporting to suspend all service order activity for Complainant on August 21, 2014 unless a security deposit of \$81,000 is paid to CenturyLink.

7. At the Commissioners' Weekly Meeting on August 20, 2014, the Commission referred this matter to an Administrative Law Judge (ALJ) for disposition. The matter was subsequently assigned to the undersigned ALJ.

8. On September 8, 2014, Respondent filed its Answer to the Complaint. In addition, Respondent included a Motion to Stay or Dismiss the Complaint (Motion).

9. Respondent noted that the Complaint is not in standard formatting; however, Respondent nonetheless generally denies the allegations contained in the Complaint.

10. As part of its Motion, Respondent points out that Complainant specifically indicated that the letter setting out the allegations that matter should be treated as an "Informal Complaint." Respondent notes that the structure of the Complaint and its signatory confirm that the Complaint is not intended to be a formal complaint. Respondent also points out that the Complaint is not signed by an attorney pursuant to Commission Rule 4 *Code of Colorado Regulations* 723-1-1201, Commission's Rules of Practice and Procedure.

11. As a result, Respondent requests that the proceeding be stayed or dismissed as a Formal Complaint. Respondent further states that it is willing to continue discussions with Complainant regarding the subject matter of the Complaint. Respondent also requests that the procedural schedule, including the evidentiary hearing scheduled for October 30, 2014 be vacated and the parties be directed to discuss and negotiate matters addressed in the Complaint letter, and provide a status report to the Commission regarding those discussions.

12. It is agreed that it is not clear why this matter was referred to the ALJ as a Formal Complaint. While Respondent proposes reasonable procedural alternatives, before any of those procedures will be adopted, Complainant will be required to file a pleading which clarifies its intent in this matter. If Complainant clarifies that it is appropriate to treat this matter as a

Formal Complaint, Complainant will be required to obtain legal counsel and have that legal counsel enter an appearance in this matter within 20 days after the effective date of this Decision. A pre-hearing conference will then be established at which a procedural schedule, including a date for an evidentiary hearing will be adopted.

13. If Complainant clarifies that its intent is to treat this matter informally, then the proposal put forth by Respondent as set out above will be considered and an Interim Decision adopting such procedures will be issued at a later time. Complainant is to also indicate whether its intent is to have Commission Telecommunications Staff serve as an intermediary in this matter in order to assist in resolving the issues Complainant raised in its letter.

14. Pending clarification of the course of this proceeding by Complainant, the proceeding will be stayed. The evidentiary hearing scheduled for October 30, 2014 will also be vacated. In addition, because the protection of the health, safety, and welfare of Colorado citizens is of paramount importance to this Commission, Respondent will be temporarily enjoined from suspending all service order activity for Complainant and temporarily enjoined from disconnecting Complainant's service until this matter is finally resolved. This will ensure that telecommunications end users will have uninterrupted telephone service until this matter is resolved.

II. ORDER

A. It Is Ordered That:

1. San Isabel Telecom, Inc. shall file a pleading which clarifies its intent with regard to its Complaint consistent with the discussion above in Paragraph Nos. 12 and 13 no later than 20 days after the effective date of this Decision.

2. This Complaint proceeding shall be stayed pending clarification from San Isabel Telecom, Inc. as to its intent.

3. The evidentiary hearing in this proceeding scheduled for October 30, 2014 shall be vacated.

4. CenturyTel of Eagle, Inc., doing business as CenturyLink is hereby temporarily enjoined from suspending all service order activity for San Isabel Telecom, Inc., and temporarily enjoined from disconnecting San Isabel Telecom, Inc.'s service until this matter is finally resolved.

5. This Decision is effective immediately.

(S E A L)



ATTEST: A TRUE COPY

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

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

PAUL C. GOMEZ

Administrative Law Judge