

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-058AT

IN THE MATTER OF THE APPLICATION OF OMNETRIX INTERNATIONAL, INC. TO
DISCONTINUE OR CURTAIL JURISDICTIONAL TELECOMMUNICATIONS SERVICE.

ORDER REQUESTING SUPPLEMENTAL INFORMATION

Mailed Date: February 26, 2004

Adopted Date: February 25, 2004

I. BY THE COMMISSION

A. Statement

1. On February 10, 2004, Omnetrix International, Inc. (Omnetrix), filed Advice Letter No. 5 with an attached application to discontinue providing Local Exchange Telecommunications Services and Emerging Competitive Telecommunications Services in Colorado. In this application, Omnetrix states that it was in the position of being unable to continue providing these regulated services and that all customers are currently being serviced by Colorado Teleserve, Inc. (CTI), under a wholesale agreement with Omnetrix. Omnetrix asserted that it was no longer in control of the services being provided.

2. On February 17, 2004, Omnetrix filed a letter requesting the withdrawal of its application for discontinuance. In this letter, Omnetrix states that it has resolved its financial problems that would have forced it to be unable to continue providing Local Exchange Telecommunications Services and Emerging Competitive Services.

3. Also on February 17, 2004, Staff of the Commission (Staff) filed an intervention and request for hearing in this docket. In this intervention, Staff states that it has many questions

concerning both the original application and also the withdrawal of the application. Staff's concerns include: the possible disconnect of Omnetrix by Qwest Corporation (Qwest) for non-payment; which company is actually serving the customers in question; notice to those customers; any transition plan, if necessary; and whether Omnetrix's financial problems have in fact been resolved.

4. On February 20, 2004, Staff filed a response in opposition to Omnetrix's withdrawal of its application to discontinue service. In this response, Staff contends that it is still concerned with the financial stability of Omnetrix and the probability that Qwest will disconnect service for non-payment. Staff recommends that, before the Commission grants the withdrawal of Omnetrix's application, the Commission order Omnetrix to affirmatively demonstrate that its financial difficulties have, in fact, been resolved.

5. On February 23, 2004, the Colorado Office of Consumer Counsel (OCC) filed a notice of intervention and request for hearing and opposition to Omnetrix's withdrawal of its application. The OCC gives similar reasons to those of Staff's for requesting a hearing on this matter. The OCC is concerned that Omnetrix customers should be timely notified of any changes that will affect their service. The OCC states that it has been informed that Omnetrix has not reached an agreement for continued service from Qwest and that they accordingly remain subject to disconnection. The OCC requests that the Commission expedite plans to transition customers, as necessary, to ensure protection of those customer interests. Further, the OCC recommends that the Commission deny Omnetrix's request to withdraw its application.

6. On February 24, 2004, Qwest filed a petition to intervene and opposition to Omnetrix's request to withdraw its application. In this filing, Qwest states that Omnetrix has

failed to keep payment arrangements reached with Qwest late last year for past due amounts. Qwest has extended the deadline for Omnetrix's disconnection several times. Qwest asserts that as of the filing date of its petition, Qwest and Omnetrix had not reached an agreeable payment plan.

7. There is not enough information in the filing to determine whether Omnetrix's request to withdraw its application is appropriate. It is obvious from the Staff and OCC interventions that some question remains as to Omnetrix's financial stability, its relationship with CTI, and monies still owed Qwest. Therefore, we order Omnetrix to supplement its request for withdrawal with responses to the following questions:

- 1) Does Omnetrix have outstanding monies owed to Qwest for wholesale services? If so, what is the amount of those monies and when were they due to Qwest?
- 2) Please provide copies of all notices of non-payment and potential disconnection that Omnetrix has received from Qwest.
- 3) Is Omnetrix currently serving any end-use customers (including residential and business)? If so, separated by residential and business, how many end-use customers does Omnetrix serve?
- 4) Does Omnetrix currently have a business relationship with CTI? If so, please provide copies of any agreements that define that relationship.
- 5) Please provide any copies of notices sent to end-use customers regarding a transfer of service from Omnetrix to CTI and copies of notices sent to end-use customers regarding a discontinuation of service by Omnetrix.
- 6) Please provide support for Omnetrix's statement that "all financial problems have been resolved."

8. Omnetrix is ordered to file this supplemental information by March 5, 2004. After we receive that information, we will consider the request for withdrawal as well as the requests for hearing. In the interim, Qwest is ordered not to disconnect Omnetrix's wholesale service until further order of the Commission.

II. ORDER

A. The Commission Orders That:

1. Omnetrix International, Inc., is ordered to supplement its application consistent with the above discussion by March 5, 2004.

2. Qwest Corporation's Petition to Intervene is granted.

3. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
February 25, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners