

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-359AT

IN THE MATTER OF THE APPLICATION OF COLORADO TELESERV, INC. DOING
BUSINESS AS ROCK SOLID BROADBAND TO DISCONTINUE OR CURTAIL
JURISDICTIONAL TELECOMMUNICATIONS SERVICE.

**ORDER DENYING MOTION AND
SETTING HEARING BEFORE
THE COMMISSION**

Mailed Date: August 18, 2004
Adopted Date: August 18, 2004

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of a Motion Requesting Initial Commission Decision filed by Qwest Corporation (Qwest) on August 6, 2004. Qwest states that a hearing in the matter of the discontinuance of jurisdictional telecommunications service of Colorado Teleserv, Inc. (CTI), is scheduled before an administrative law judge (ALJ) on September 2, 2004. Qwest also indicates that CTI has requested a discontinuance date of September 9, 2004.

2. Qwest maintains that an expedited decision in the form of an initial Commission decision is necessary here, because it has not received payment for services rendered from CTI since April 16, 2004. Qwest also represents that it continues to provide service to CTI without payment, thus it wishes to complete the discontinuance process as quickly as possible.

3. Although Qwest did not raise the issue of an initial Commission decision with the ALJ, Qwest argues that pursuant to § 40-6-109(6), C.R.S., the Commission, and not the ALJ, has

the authority to find that it should render an initial decision. Qwest also represents that CTI, Commission Staff, and the Colorado Office of Consumer Counsel do not oppose the motion.

4. The only response to the motion was filed by Frank Ramogida Holdings Co., Inc. (FRHC). According to the response, FRHC's interest in denying Qwest's motion and letting the application run through the normal process is so it would have its certificate of public convenience and necessity in place by then and would thus be eligible for consideration as an alternative provider for the affected end users.

5. We agree with Qwest that time is of the essence here since it is providing services to CTI, and has been since April 16, 2004, without payment. However, rather than render an initial Commission decision based on the evidence gathered at a hearing before the ALJ, we find it more efficient to have the Commissioners hear this matter *en banc*. Therefore, we will vacate our order in Decision No. C04-0784 referring this matter to an ALJ and set this matter for hearing before the Commission on September 2, 2004.

6. Therefore, we deny Qwest's motion requesting an initial Commission decision and vacate our order remanding this matter to an ALJ.

II. ORDER

A. The Commission Orders That:

1. Qwest Corporation's Motion Requesting Initial Commission Decision is denied.

2. This matter shall be set for hearing before the Commission *en banc* at the following date, time, and location:

DATE: September 2, 2004

TIME: 9:00 a.m.

PLACE: Public Utilities Commission
Hearing Room A
1580 Logan, OL2
Denver, Colorado

3. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
August 18, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners