

Decision No. C04-1193

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-411T

IN THE MATTER OF THE COMBINED APPLICATION OF QWEST CORPORATION FOR RECLASSIFICATION AND DEREGULATION OF CERTAIN PART 2 PRODUCTS AND SERVICES AND DEREGULATION OF CERTAIN PART 3 PRODUCTS AND SERVICES.

DOCKET NO. 04D-440T

STAFF OF THE COLORADO PUBLIC UTILITIES COMMISSION'S PETITION FOR A DECLARATORY ORDER CONCERNING THE RECLASSIFICATION AND DEREGULATION OF TELECOMMUNICATIONS SERVICES UNDER PARTS 2 AND 3, TITLE 40, ARTICLE 15 OF THE COLORADO REVISED STATUTES.

**ORDER CONSOLIDATING DOCKETS,
GRANTING INTERVENTIONS,
AND SETTING BRIEFING SCHEDULE**

Mailed Date: October 14, 2004

Adopted Date: October 6, 2004

I. BY THE COMMISSION

A. Statement

1. The Commission, now being duly advised, enters the following procedural directives in these cases: Docket No. 04D-440T concerns Commission Staff's (Staff) Petition for a Declaratory Order Concerning the Reclassification and Deregulation of Telecommunications Services; Docket No. 04A-411T concerns the Application for Reclassification of Certain Part 2 Services and Products, and Deregulation of Certain Part 3 Services by Qwest Corporation (Qwest). On our own motion we now consolidate these dockets. Notably, Staff filed its Petition for a Declaratory Order for a Commission determination of certain questions (discussion, *infra*) relating to Qwest's application for deregulation. That is, Staff requests that we issue certain

rulings relating to reclassification and deregulation applications under §§ 40-15-207, and 40-15-305, C.R.S., and apply those rulings to Qwest's specific application. For these reasons, the two dockets are closely related and consolidation is proper.

2. In Docket No. 04D-440T, the following entities filed requests for intervention: the Colorado Telecommunications Association, Inc. on September 27, 2004; Time Warner Telecom of Colorado, LLC on September 28, 2004; and AARP on September 28, 2004.¹ We now waive response time and grant those requests. Any party to Docket No. 04D-440T is now made a party to Docket No. 04A-411T without further request.

3. Regarding Staff's Petition for Declaratory Order (Docket No. 04D-440T), it appears to us that the issues raised in the Petition are purely legal. Therefore, it appears that no evidentiary hearing is necessary. We deny the Office of Consumer Counsel's request for hearing. We direct the parties to file briefs addressing the issues raised in the Petition and related matters. For example (but not by way of limitation), the parties should address: (1) whether applications for deregulation or reclassification of telecommunications services under §§ 40-15-207 and 40-15-305, C.R.S., relate to services or specific providers (*e.g.*, whether the grant of Qwest's deregulation application would apply only to Qwest or to all providers of the services subject to the application); (2) if the ruling in such applications would apply to services instead of specific applicants, whether the Commission must initiate a rulemaking proceeding to consider any portion of Qwest's application, or whether the Commission may proceed by application alone; (3) how an application under §§ 40-15-207 and 40-15-305, C.R.S., by Qwest could affect the incumbent rural local exchange providers. The parties shall submit briefs on these questions by

¹ In addition, Qwest, the Colorado Office of Consumer Counsel, AT&T Communications of the Mountain States, Inc., and TCG Colorado filed entries of appearance and notices of intervention.

October 22, 2004. The Commission intends to issue rulings on the questions raised in the Petition soon after the briefs are filed.

II. ORDER

A. The Commission Orders That:

1. Docket Nos. 04D-440T and 04A-411T are consolidated.
2. The requests for intervention by the Colorado Telecommunications Association, Inc.; Time Warner Telecom of Colorado, LLC; and AARP are granted. Response time to these requests are waived. Any intervenor in Docket No. 04D-440T is made a party to Docket No. 04A-411T.
3. The Request for Hearing by the Colorado Office of Consumer Counsel is denied.
4. The parties to 04A-440T shall submit briefs consistent with the above discussion by October 22, 2004.
5. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
October 6, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners