

Decision No. R04-0832

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04F-276T

ADVANCED AIR TECH MECHANICAL, INC., DBA ADVANCE AIR TECK,

COMPLAINANT,

V.

QWEST CORPORATION,

RESPONDENT.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
KEN F. KIRKPATRICK
DISMISSING COMPLAINT**

Mailed Date: July 21, 2004

I. STATEMENT

1. On July 9, 2004, Respondent Qwest Corporation (Qwest) filed its Motion to Dismiss Complaint, Vacate Order Requiring Service to be Reestablished, and Vacate the July 22, 2004 Hearing. As grounds for the motion Qwest states that it no longer provides service to the Complainant Advanced Air Tech Mechanical, Inc., doing business as Advance Air Teck, under the telephone numbers which were the subject of the complaint. On July 19, 2004, Complainant filed its Non-Opposition to Motion to Dismiss Complaint. By this pleading the Complainant requests that this matter be dismissed as well.

2. Good grounds having been shown, the motion should be granted and the complaint dismissed.

3. On July 9, 2004, Horizon Mechanical, Inc. (Horizon), filed its Petition to Intervene. Horizon alleged an interest in the telephone numbers which are the subject of this complaint. However, since the complaint has been dismissed, Horizon's Petition to Intervene is moot. Therefore it is denied.

4. In accordance with § 40-6-109, C.R.S., it is recommended that the Commission enter the following order.

II. ORDER

A. The Commission Orders That:

1. Docket No. 04F-276T, being a complaint of Advanced Air Tech Mechanical, Inc., doing business as Advanced Air Teck against Qwest Corporation is dismissed without prejudice.

2. The Petition to Intervene filed July 9, 2004 by Horizon Mechanical, Inc., is denied as moot.

3. 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.

4. As provided by § 40-6-109, 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 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 basic findings 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.

5. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge