

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-382T

IN THE MATTER OF THE APPLICATION OF GLOBAL NAPS COLORADO, INC.,
FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE
LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES AND FOR A LETTER OF
REGISTRATION TO PROVIDE EMERGING COMPETITIVE TELECOMMUNICATIONS
SERVICES.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
GRANTING UNOPPOSED MOTION,
SETTING HEARING DATE, ESTABLISHING
PROCEDURAL SCHEDULE, AND
WAIVING RESPONSE TIME**

Mailed Date: October 13, 2004

I. STATEMENT

1. On July 23, 2004, Global NAPs Colorado, Inc. (Applicant), filed an Application for a Certificate of Public Convenience and Necessity to Provide Local Exchange Telecommunications Services and for a Letter of Registration to Provide Emerging Competitive Telecommunications Services (Application). The Application commenced this docket.

2. On July 27, 2004, the Commission gave public notice of the Application. On September 2, 2004, Staff of the Commission (Staff) filed its intervention of right and request for hearing. This is the only intervention in this proceeding.

3. A prehearing conference was held on September 28, 2004. Both parties were present, were represented, and participated. The matter of the Commission's jurisdiction was discussed at length (*see* Decision No. R04-1065-I at ¶¶ 8-13); and the Administrative Law Judge

(ALJ) deferred decision on this issue until the hearing, at which time the parties will present evidence concerning the jurisdiction issue. At the conclusion of the prehearing conference, the parties agreed to submit a proposed procedural schedule, including a hearing date.

4. On October 6, 2004, Staff filed an Unopposed Motion to Approve Procedural Schedule (Motion). The Motion states good cause, and granting the Motion will not prejudice any party. The Motion will be granted, and the procedural schedule, including hearing date, will be adopted.

5. In considering proposed dates, the ALJ was mindful that the Commission deemed the Application complete as of August 31, 2004. Absent Applicant's waiver of the statutory time frame or a finding of extraordinary circumstances, a Commission decision in this proceeding should issue within 210 days of that date (*i.e.*, on or before March 29, 2005). *See* §§ 40-6-109.5(2) and 40-6-109.5(4), C.R.S. The procedural schedule proposed by the parties allows time for preparation of a recommended decision, preparation of exceptions to the recommended decision and response to exceptions, and preparation of a Commission decision on exceptions to occur within the 210-day time frame.

6. The following procedural schedule will be adopted: (a) on or before **October 19, 2004**, Applicant will file its direct testimony and exhibits; (b) on or before **November 9, 2004**, Staff will file its answer testimony and exhibits; (c) on or before **November 30, 2004**, Applicant will file its rebuttal testimony and exhibits; (d) on or before **December 7, 2004**, each party will file its corrected testimony and exhibits; (e) on or before **December 7, 2004**, each party will file its prehearing motions; (f) on or before **December 7, 2004**, the parties will file any stipulation reached; (g) hearing will be held on **December 21, 2004**; and (h) on or before **January 7, 2005**,

each party will file its post-hearing statement of position, to which (absent further Order) no response will be permitted.

7. At this time no final prehearing conference will be scheduled. If a party believes that a final prehearing conference might be beneficial, that party may file a motion requesting such a final prehearing conference.

8. With respect to discovery, the provisions of Rule 4 *Code of Colorado Regulations* (CCR) 723-1-77 shall govern this matter *except that* the response time for discovery pertaining to rebuttal testimony and exhibits will be seven calendar days *and* objections to discovery pertaining to rebuttal testimony and exhibits may be submitted with the responses. In addition, the following discovery cut-off dates will be adopted: **November 9, 2004** (last date on which discovery pertaining to direct testimony and exhibits may be propounded); **November 30, 2004** (last date on which discovery pertaining to answer testimony and exhibits may be propounded); and **December 14, 2004** (last date on which discovery pertaining to rebuttal testimony and exhibits may be propounded). Finally, unless part of a motion to compel response to discovery, an exhibit, or part of testimony, discovery requests, responses, and objections are not to be filed with the Commission and are not to be served on the Commission advisors (including Commission counsel) identified by Staff in the Rule 9(d) Notice filed by Staff in this docket.

9. In the Motion Staff also requests waiver of response time. Because both parties agree to the proposed procedural schedule, no party will be prejudiced if the requested waiver is granted. The request states good cause and will be granted. Response time to the Motion will be waived.

10. Parties are reminded of Rule 4 CCR 723-1-22(d)(3), which states: "If a pleading refers to new court cases or other authorities not readily available to the Commission, six copies

of each case or other authority shall be filed with the pleading.” If a party wishes the ALJ to consider a cited authority *other than* an opinion of the United States Supreme Court, a reported Colorado state court opinion, or a Commission decision, the party must provide a copy of, or a website address for, that cited authority.

11. The parties (including their witnesses) shall provide the decision number when referring to or citing a Commission decision.

II. ORDER

A. It Is Ordered That:

1. The unopposed Motion to Approve Procedural Schedule filed by Staff of the Commission is granted.

2. The procedural schedule set out above is adopted.

3. Hearing in this matter will be conducted on the following date, at the following time, and in the following location:

DATE: December 21, 2004

TIME: 9:00 a.m.

PLACE: Commission Hearing Room
1580 Logan Street, OL2
Denver, Colorado

4. The parties shall follow the procedures and shall make the filings set out above.

5. The Request for Waiver of Response Time is granted.

6. Response time to the Unopposed Motion to Approve Procedural Schedule is waived.

7. This Order is effective immediately.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge

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