

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-508T

IN THE MATTER OF THE APPLICATION OF SC TXLINK, LLC, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
VACATING PROCEDURAL SCHEDULE,
SCHEDULING PREHEARING CONFERENCE,
AND LISTING ISSUES FOR DISCUSSION**

Mailed Date: November 24, 2004

I. STATEMENT

1. On October 7, 2004, SC TxLink, LLC (Applicant), filed an Application for a Certificate of Public Convenience and Necessity to Provide Local Exchange Telecommunications Services (Application). Applicant did not file its direct testimony and exhibits with its Application. The Application commenced this docket.

2. On October 12, 2004, the Commission gave public notice of the Application. *See* Posting of Application Filed (Notice), dated October 12, 2004. In that Notice, the Commission established a 20-day intervention period. To the extent that the Notice may have established a procedural schedule in this proceeding, this Order will vacate that schedule.

3. The Commission deemed the Application complete as of November 16, 2004.

4. On November 22, 2004, Staff of the Commission (Staff) filed its intervention of right and request for hearing. This is the only intervention in this proceeding.

5. It is necessary to schedule a hearing and to establish a procedural schedule in this matter. To do so, a prehearing conference will be held on **December 7, 2004**. The provisions of Rules 4 *Code of Colorado Regulations* (CCR) 723-1-79(b)(3) and 4 CCR 723-1-79(b)(4) will govern this prehearing conference.

6. The parties must be prepared to discuss these matters at the prehearing conference: (a) date by which Applicant will file its direct testimony¹ and exhibits; (b) date by which Staff will file its answer testimony and exhibits; (c) date by which Applicant will file its rebuttal testimony and exhibits; (d) date by which each party will file its corrected testimony and exhibits; (e) date by which each party will file its prehearing motions;² (f) whether a final prehearing conference is necessary and, if it is, the date for that prehearing conference; (g) date by which the parties will file any stipulation reached;³ (h) hearing date; and (i) date for each party to file its post-hearing statement of position are necessary (assuming the parties wish to file such statements of position) and whether response should be permitted. In addition, Applicant and Staff should be prepared to discuss any matters pertaining to discovery if the procedures of Rule 4 CCR 723-1-77 are not sufficient. Further, the parties should review, and be prepared to discuss to the extent relevant, the matters contained in Rule 4 CCR 723-1-79(b)(5). Finally, any party may raise any additional issue.

7. In considering proposed dates, parties should keep in mind that the Commission deemed the Application complete as of November 16, 2004. Absent Applicant's waiver of the statutory time frame or a finding of extraordinary circumstances, a Commission decision in this

¹ Testimony is filed in question and answer format.

² This date should be at least 10 days before the final prehearing conference or, if there is no final prehearing conference, 14 days before the hearing.

³ This date should be at least seven calendar days before the first day of hearing.

proceeding should issue within 210 days of that date (*i.e.*, on or before June 14, 2005). *See* §§ 40-6-109.5(2) and 40-6-109.5(4), C.R.S. Any procedural schedule must take into consideration, and must allow 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,⁴ all of which should occur by June 14, 2005.

8. The Administrative Law Judge (ALJ) expects the parties to come to the prehearing conference with proposed dates for all deadlines. In addition, the parties must consult prior to the prehearing conference with respect to the listed matters. Finally, the parties are encouraged to present, if possible, a procedural schedule and hearing date(s) which are satisfactory to both parties.

9. If the parties are able to reach agreement on a procedural schedule in advance of the prehearing conference date and if there are no issues which require discussion at a prehearing conference, the parties may file a proposed procedural schedule in advance of the prehearing conference⁵ and may request that the prehearing conference be vacated. Such a request would need to be filed on or before December 3, 2004.

II. ORDER

A. It Is Ordered That:

1. The procedural schedule, if any, established in the Posting of Application Filed, dated October 12, 2004, is vacated.

⁴ As a general rule, and not including the time necessary for preparation of a transcript if one is ordered, these activities consume 10 to 12 weeks from the end of the hearing, the filing of statements of position, or the filing of responses to statements of position, whichever occurs last.

⁵ If the parties elect to follow this course, the ALJ requests that the parties contact her (telephone: 303.894.2842) to discuss available hearing dates before filing the proposed procedural schedule.

2. A prehearing conference in this docket is scheduled as follows:

DATE: December 7, 2004

TIME: 9:00 a.m.

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

3. The parties must be prepared to discuss the matters set forth above.
4. This Order is effective immediately.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge