

Decision No. R14-0426-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 13A-1337T

IN THE MATTER OF THE APPLICATION OF SAGE TELECOM COMMUNICATIONS, LLC FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER IN THE STATE OF COLORADO FOR THE PURPOSE OF OFFERING WIRELESS LIFELINE SERVICE.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
VACATING HEARING AND PROCEDURAL
SCHEDULE AND ACKNOWLEDGING
WAIVER OF STATUTORY DEADLINE**

Mailed Date: April 23, 2014

I. STATEMENT, FINDINGS, AND CONCLUSIONS

1. Only those portions of the procedural history necessary to understand this Decision are included.

2. On December 18, 2013, Sage Telecom Communications LLC (Sage) filed an Application for Designation as an Eligible Telecommunications Carrier in the State of Colorado for the Limited Purpose of Offering Wireless Lifeline Service.

3. The Colorado Office of Consumer Counsel (the OCC) and Commission trial Staff (Staff) timely intervened in this proceeding.

4. On January 29, 2014, by Minute Order, the Commission referred this matter to an Administrative Law Judge (ALJ) for disposition.

5. By Decision No. R14-0205-I issued February 25, 2014, the ALJ scheduled a hearing for April 25, 2014 and established procedural deadlines. Based upon unopposed motions

filed by Staff, the ALJ extended the deadlines set by Decision No. R14-0205-I for interveners to file testimony and exhibits to April 1, 2014. Decision Nos. R14-0289-I and R14-0290-I.

6. On April 1, 2014, Sage filed an “Unopposed to Vacate a Portion of the Procedural Schedule and Request for Waiver of Response Time” (Motion). The Motion sought to vacate portions of the procedural schedule set by Decision Nos. R14-0205-I, R14-0289-I, and R14-0290-I. Specifically, the Motion sought to keep the deadline to file stipulations and settlements and the hearing date in place. On April 2, 2014, the ALJ granted the Motion. Decision No. R14-0351-I. In so doing, the ALJ vacated the following: the deadlines to file answer testimony and exhibits, rebuttal testimony and exhibits, cross-answer testimony and exhibits, corrected testimony and exhibits, and prehearing motions. The deadline to file stipulations and settlements, to file a request to hold a final prehearing conference, to file statements of position, and the hearing date remained in effect under Decision No. R14-0351-I.

7. The deadline to file stipulations and settlements was April 21, 2014. On that date, Sage filed a “Waiver of Statutory Deadline, Request to Vacate Remaining Procedural Schedule and Waiver of Response Time” (Request). In the Request, Sage waives the statutory deadline in § 40-6-109.5, C.R.S., for a Commission decision to issue. Under that statute, a Commission decision must issue within 210 days of the date an application is deemed complete. § 40-6-109.5(2), C.R.S. However, that deadline may be waived by the applicant, and when waived, is not binding upon the Commission. § 40-6-109.5(3), C.R.S. The ALJ accepts and acknowledges Sage’s waiver of the statutory deadline set forth by § 40-6-109.5(2), C.R.S., pursuant to authority provided by § 40-6-109.5(3), C.R.S.

8. The Request seeks to vacate the remaining procedural deadlines and the hearing currently scheduled for April 25, 2014. As grounds, Sage states that it has had an unforeseen and

unexpected delay in receiving information from Sage's underlying wireless carriers such that it is unable to produce a comprehensive list of wire centers where it will seek Eligible Telecommunications Carrier designation. Sage further states that it has reached an agreement with Staff and the OCC on all other essential issues in this matter. However, without the information it needs to produce a comprehensive list of wire centers, the parties are unable to finalize an agreement. Sage anticipates that it will receive the necessary information within several days of April 21, 2014, which will enable the parties to finalize its settlement with the OCC and Staff.

9. Sage expects the settlement agreement will be finalized within one week of April 21, 2014. Sage requests that the hearing be vacated and rescheduled, if necessary, once it has filed its settlement agreement. Sage states that its Request is unopposed and asks that the response time to it be waived.

10. Because the Request is unopposed, the ALJ will waive the response time to the unopposed Request. Rule 1400(b), Rules of Practice and Procedure, 4 *Code of Colorado Regulations*, 723-1.

11. The ALJ finds that Sage has shown good cause to vacate the hearing and remaining deadlines set by Decision Nos. R14-0205-I, R14-0289-I, and R14-0290-I. Particularly given Sage's waiver of the statutory deadline for a Commission decision to issue and the fact that the parties are nearing a final settlement, there is no pressing need to hold the hearing as scheduled. The ALJ will grant the Request. The hearing and all remaining procedural deadlines will be vacated.

12. After the parties have filed their stipulation, the ALJ will determine if it is necessary to hold a hearing on the stipulation. If that is the case, the ALJ will reschedule the hearing, which shall be properly noticed to all parties.

II. ORDER

A. It Is Ordered That:

1. The April 25, 2014 9:15 a.m. hearing in this proceeding is vacated.
2. All remaining deadlines set by Decision Nos. R14-0290-I, R14-0289-I, and R14-0205-I are vacated.
3. Sage Telecom Communications LLC's waiver of the statutory deadline set forth by § 40-6-109.5(2), C.R.S., for a Commission decision to issue is accepted and acknowledged.
4. This Decision is effective immediately.

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge