

Decision No. R14-1427-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14M-0947T

IN THE MATTER OF COMMISSION CONSIDERATION OF EFFECTIVE COMPETITION FOR BASIC SERVICE UNDER § 40-14-207, C.R.S., IN CERTAIN AREAS SERVED BY QWEST CORPORATION, DOING BUSINESS AS CENTURYLINK QC; EL PASO COUNTY TELEPHONE COMPANY; CENTURYTEL OF COLORADO, INC.; AND CENTURYTEL OF EAGLE, INC.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
GRANTING MOTION; GRANTING
DIANE BROWNING, ESQUIRE,
ADMISSION *PRO HAC VICE*;
CONTAINING ADVISEMENTS;
AND WAIVING RESPONSE TIME**

Mailed Date: December 3, 2014

I. STATEMENT

1. On September 23, 2014, by Decision No. C14-1163, the Commission *sua sponte* opened this Proceeding “to make findings pursuant to [§ 40-15-207, C.R.S.] as to whether basic service in certain areas of Colorado [is] subject to effective competition or [is] ‘without effective competition’ for purposes of” §§ 40-15-208 and 40-15-502, C.R.S. Decision No. C14-1163 at ¶ 4. The Commission stated that this Proceeding will “review the 104 wire center serving areas listed in Attachment A” to Decision No. C14-1163. *Id.* The Commission referred this Proceeding to an Administrative Law Judge (ALJ).

2. The following are the Parties in this Proceeding: AT&T Corp.; Bresnan Broadband of Colorado, LLC; CenturyTel of Colorado, Inc.; CenturyTel of Eagle, Inc.; Colorado Office of Consumer Counsel; Comcast Phone of Colorado, LLC; El Paso County Telephone

Company; N.E. Colorado Cellular, Inc., doing business as Viaero Wireless; Northern Colorado Communications, LLC; Qwest Corporation, doing business as CenturyLink QC; Sprint Communications Company L.P.; Sprint Spectrum L.P., doing business as Sprint PCS;¹ Teleport Communications America, LLC; and Trial Staff of the Commission.

3. Previous Decisions contain the procedural history of this matter. The procedural history is repeated here as necessary to put this Interim Decision in context.

4. An attorney who is not licensed to practice law in Colorado (out-of-state attorney) must be granted permission to appear *pro hac vice* in this Proceeding. Rule 4 *Code of Colorado Regulations* (CCR) 723-1-1201(a)² governs the admission of out-of-state attorneys. Rule 4 CCR 723-1-1201(a) requires compliance with Colorado Rule of Civil Procedure (Colo.R.Civ.P.) 221.1, which is now Colo.R.Civ.P. 205.5 and which became effective on September 1, 2014. Colo.R.Civ.P. 205.5 incorporates by reference the requirements of Colo.R.Civ.P. 205.3.

5. As pertinent here, Colo.R.Civ.P. 205.3(2)(a) details what an out-of-state attorney must do to be permitted to appear *pro hac vice* and includes these requirements:

- (i) File a verified motion with the [administrative agency] requesting permission to appear;
- (ii) Designate an associate attorney who is admitted and licensed to practice law in Colorado;
- (iii) File a copy of the verified motion with the Clerk of the Supreme Court Office of Attorney Registration at the same time the verified motion is filed with the [administrative agency];
- (iv) Pay the required fee to the Clerk of the Supreme Court collected by the Office of Attorney Registration; and
- (v) Obtain permission from the [administrative agency] for such appearance.

¹ Unless the context indicates otherwise, reference in this Interim Decision to Sprint is to Sprint Communications Company L.P. and Sprint Spectrum L.P., doing business as Sprint PCS, collectively.

² This Rule is found in the Rules of Practice and Procedure, Part 1 of 4 *Code of Colorado Regulations* 723.

6. Colo.R.Civ.P. 205.3(2)(b) specifies the content of a motion for leave to appear *pro hac vice* and, as pertinent here, requires:

- (v) A statement that the [out-of-state attorney] acknowledges he or she is subject to the Colorado Rule of Professional Conduct, the Colorado Rules of Civil Procedure, and other [administrative agency] rules, that the [out-of-state attorney] will follow those rules throughout the *pro hac vice* admission, ... [.]

7. In addition, Colo.R.Civ.P. 205.3(3) provides:

The name and address of the licensed Colorado associate attorney must be shown on all papers served and filed by the out-of-state attorney in a *pro hac vice* representation. The Colorado associate attorney shall appear personally and, unless excused, remain in attendance with the out-of-state attorney in all *pro hac vice* appearances.

8. On November 26, 2014, Diane Browning, Esquire, filed in this case a Verified Motion to Appear *Pro Hac Vice* as Attorney and Co-counsel for Sprint Communications Company L.P. and Sprint Spectrum L.P., doing business as Sprint PCS (Browning Motion). In that filing, Ms. Browning seeks to appear *pro hac vice* to represent Sprint.

9. On December 3, 2014, the Attorney Registration Office of the Supreme Court of Colorado informed the Commission that Ms. Browning has been assigned a *pro hac vice* registration number for this Proceeding. The notice states that the final decision with respect to Ms. Browning's admission *pro hac vice* lies with the Commission.

10. Given the nature of the Browning Motion, the ALJ finds good cause to waive response time to the motion and finds that no party will be prejudiced by waiver of response time to the motion. The ALJ will waive response time to the Browning Motion.

11. The ALJ has reviewed the Browning Motion, the Attorney Registration Office notice, and the requirements of Colo.R.Civ.P. 205.3. The ALJ finds that Ms. Browning has complied with Rule 4 CCR 723-1-1201(a) and Colo.R.Civ.P. 205.5 (and the incorporated

Colo.R.Civ.P. 205.3), that the Browning Motion states good cause, and that no party will be prejudiced if the Browning Motion is granted. The ALJ will grant the Browning Motion and will admit Ms. Browning *pro hac vice* to represent Sprint in this Proceeding.

12. **Diane Browning, Esquire, is advised and is on notice that** she will be held to the requirements of Colo.R.Civ.P. 205.3(3) as incorporated by reference into Colo.R.Civ.P. 205.5 and to the acknowledgements contained in the verified Browning Motion.

13. **Emanuel T. Cocian, Esquire,³ is advised and is on notice that** he will be held to the requirements of Colo.R.Civ.P. 205.3(3) as incorporated by reference into Colo.R.Civ.P. 205.5.

II. **ORDER**

A. **It Is Ordered That:**

1. Consistent with the discussion above, the Verified Motion to Appear Pro Hac Vice as Attorney and Co-counsel for Sprint Communications Company L.P. and Sprint Spectrum L.P., doing business as Sprint PCS, which motion was filed on November 26, 2014 by Diane Browning, Esquire, is granted.

2. Diane Browning, Esquire, is granted permission to appear in this case *pro hac vice* as counsel for Sprint Communications Company L.P. and Sprint Spectrum L.P., doing business as Sprint PCS.

3. Diane Browning, Esquire, is held to the advisements contained in ¶ 12 of this Interim Decision.

4. Emanuel T. Cocian, Esquire, is held to the advisements contained in ¶ 13 of this Interim Decision.

³ Mr. Cocian represents Sprint in this matter and is associated with Ms. Browning for purposes of Ms. Browning's *pro hac vice* representation. Browning Motion at ¶ 13.

5. Response time to the Verified Motion to Appear Pro Hac Vice as Attorney and Co-counsel for Sprint Communications Company L.P. and Sprint Spectrum L.P., doing business as Sprint PCS, which motion was filed on November 26, 2014 by Diane Browning, Esquire, is waived.

6. The Parties are held to the advisements contained in the Interim Decisions issued in this Proceeding.

7. This Interim Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MANA L. JENNINGS-FADER

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director