

Service Date: February 7, 2018

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

IN THE MATTER OF the Petition of Commnet) REGULATORY DIVISION
Wireless, LLC for Designation as an Eligible)
Telecommunications Carrier) DOCKET NO. D2017.6.50
) ORDER NO. 7566a

PROCEDURAL ORDER

PROCEDURAL HISTORY

1. On June 6, 2017, Commnet Wireless LLC (“Commnet”), submitted a petition to the Montana Public Service Commission (“Commission”), requesting designation as an Eligible Telecommunications Carrier (“ETC”) to offer Lifeline service in Big Horn County (“Petition”).

2. On June 15, 2017, the Commission issued a Notice of Petition, indicating that parties seeking to formally intervene with Commnet’s Petition must notify the Commission by July 5, 2017. The Commission did not receive any notice of parties seeking to intervene with the Petition.

3. The Commission subsequently issued a variety of data requests to Commnet, with Commnet responding. Through this discovery process, the Commission has identified several issues of fact and law that require an evidentiary hearing for further investigation.

4. Accordingly, the Commission, through delegation to staff, hereby establishes the Procedural Order (“Order”) to be followed in this proceeding. This Order is effective immediately and remains effective unless modified by the Commission or staff. Mont. Code Ann. § 69-3-103. Parties may seek reconsideration of this Order within ten (10) days of its service date. Mont. Admin. R. 38.2.4806 (2018).

SCHEDULE

5. This Petition shall adhere to the following shortened procedural schedule:

- (a) February 26, 2018: Final day for all parties to file pre-hearing memoranda.
- (b) March 5, 2018: Hearing commences and continues from day-to-day as necessary.

SERVICE AND FILING

6. A party must serve a copy of every pleading, motion, brief, objection, data request or response, and other document it files in this proceeding on every other party. Upon e-filing a document with the Commission, the filing party must email a copy of the document to counsel of record. In order to file a document with the Commission, a party must: (1) Submit the document electronically (e-file) on the Commission's website at <http://psc.mt.gov> ("Account Login/Registration" under "Electronic Documents" tab); and (2) physically deliver or mail the original document to the Commission at 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601. The Commission will not post an e-filed document to its website until it receives the original from the filing party. Service or filing by means of facsimile is prohibited. Service by mail does not extend a deadline.

7. Commnet is represented by the following Montana attorneys:
Michael Green & Wiley Baker
Crowley Fleck PLLP
900 N. Last Chance Gulch, Suite 200
P.O. Box 797
Helena, MT 59642-0797

INTERVENTION

8. The deadline for protest in this proceeding was July 5, 2017. An entity seeking late intervention must file a petition to intervene setting forth: (1) The general position that it intends to take; (2) a legally protectable interest directly affected by this proceeding; (3) whether late intervention would delay the proceeding or prejudice another party; and (4) good cause for not having filed a timely petition. Late intervention will become effective only upon action of the Commission.

PRE-HEARING MOTIONS, CONFERENCES, AND MEMORANDA

9. Parties must make a pre-hearing motion, including a motion to strike pre-filed testimony, at the earliest possible time. A responding party must file and serve its response brief within seven (7) calendar days of service of the motion. If the movant wishes to reply, it must file and serve its reply brief within five (5) calendar days of service of the response brief. Upon the request of a party, the Commission may allow oral argument on a pre-hearing motion.

10. Unless the parties agree to file jointly, each party must file and serve a pre-hearing memorandum listing the following information regarding the hearing: (1) Contested issues; (2) uncontested issues; (3) witnesses that it intends to call; (4) exhibits and responses to data requests that it intends to introduce (other than responses to data requests related to

additional issues response testimony); and (5) any special accommodations sought regarding witness sequence or scheduling.

11. The Commission may schedule a pre-hearing conference at any time prior to the hearing to discuss the feasibility of settlement in whole or in part, simplification of the remaining issues through admissions of fact, and any other matters that may expedite the hearing.

HEARING

12. The Montana Rules of Evidence in effect at the time of the hearing will govern the hearing. *See* Mont. Code Ann. § 2-4-612(2). As each party is entitled to reasonable notice of what issues will be addressed at the hearing, the Commission may not allow a party to raise an issue at a hearing unless it is reasonably related to an issue previously identified in the proceeding.

13. Prior to the hearing, parties must arrange with the court reporter and Commission staff to consistently mark all proposed exhibits, responses to data requests, and pre-filed testimony for reference.

14. Parties must make each person that authored a data request response available for cross-examination at the hearing unless the Commission approves an agreement among the parties to waive cross-examination. A witness need not recite pre-filed testimony before counsel moves to admit the testimony into the record.

15. When a party seeks to examine a witness based on a document not previously filed in this proceeding, it must make copies of the document available to each Commissioner, party, and staff member, unless it shows good cause why copies are not available. A party seeking to introduce a document not previously filed in this proceeding must also provide a copy of the document to the court reporter.

16. At the discretion of the Commission, members of the public may comment on the proceeding at the hearing.

DONE AND DATED this 7th day of February, 2018, by delegation to Commission staff as an Order of the Commission.

BY THE MONTANA PUBLIC SERVICE COMMISSION
BRAD JOHNSON, Chairman
TRAVIS KAVULLA, Vice Chairman
ROGER KOOPMAN, Commissioner
BOB LAKE, Commissioner
TONY O'DONNELL, Commissioner