

**THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

Before Examiner: Walker Hendrix, Examiner

In the Matter of the Complaint of Ideatek)
Telcom, LLC against Nex-Tech and Rural)
Telephone Service Company Regarding) Docket No. 19-RRLT-277-COM
Disconnection of Service, Request for)
Interim Ruling and Request for Expedited)
Review.)

EXAMINER ORDER SUSPENDING PROCEDURAL SCHEDULE

This matter comes before the Examiner of the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed the pleadings and record, the Examiner makes the following findings:

1. On January 18, 2019, Ideatek Telcom, LLC (Ideatek) filed a Complaint, Request for Expedited Review and Request for Interim Ruling to resolve the on-going disputes between Ideatek and Rural Telephone Service Co., d/b/a Nex-Tech (Nex-Tech) regarding call routing of Ideatek's Voice over Internet Protocol (VoIP) traffic from the Wakeeney Exchange, the need for an interconnection agreement, and Nex-Tech's demand for payment arising from an interim access trunk and its notice of disconnection in the event of non-payment. Ideatek filed an Amended Complaint on January 30, 2019, to clarify certain information contained in the original Complaint.
2. Nex-Tech filed an Initial Response on January 22, 2019, to the Ideatek Complaint contesting the Ideatek request for expedited review and reserving additional time to file a complete answer to the complaint as provided under K.A.R 82-1-220a (e). Nex-Tech followed up its Initial Response on February 6, 2019, with a Motion for Enlargement of Time to file its Answer to the Ideatek Amended Complaint and requested an extension of time to February 15, 2019, to file its Answer, to which no party objected.

3. The Examiner issued an Order on February 1, 2019, denying the Ideatek request for expedited review, but set a scheduling conference for February 13, 2019; identified a preliminary list of issues appearing from the Complaint; and indicated a desire to resolve the issues within 90 to 120 days of the time Ideatek amended its Complaint on January 30, 2019.

4. The Independent Telecommunications Group, Columbus et al., (ITG) filed a Petition for Leave to Intervene on February 11, 2019. The State Independent Alliance (SIA) filed a Petition to Intervene on February 12, 2019.

5. At the scheduling conference on February 13, 2019, the parties agreed to a procedural schedule. The procedural schedule established a date for Ideatek's response to the Petitions for Intervention, a date for ruling on the Petitions for Intervention, a proposed timeframe for supplementing the Examiner's issues list and establishing possible discovery prior to briefing or testimony, and a briefing schedule for addressing legal issues not involving testimony.

6. After the scheduling conference, the parties met to discuss the possibility of settlement. A tentative agreement was reached between Nex-Tech and Ideatek that, if formally consummated, would allow Ideatek to dismiss its Complaint. Ideatek filed a Motion to Suspend Proceedings on February 15, 2019, and indicated a need to postpone the proceedings for up to three weeks to permit the parties to complete their agreement. As part of the request to suspend proceedings, the parties would not proceed under the scheduling procedure established on February 13, 2019, and the Nex-Tech answer date, the responses to the Petitions for Intervention, possible discovery, supplementing the issues list and the briefing schedule would be continued in the event a settlement agreement is not achieved. Nex-Tech and the Commission Staff supported the Motion to Suspend Proceedings.

7. Pursuant to K.A.R. 82-1-217(b), for good cause shown, the time for taking action may be extended under the Commission rules and regulations. The Examiner notes that settlements are favored in the law. *Bright v. LSI Corp.*, 254 Kan. 853, 869 P.2d 686 (1994). The Examiner recognizes that a settlement agreement leading to a dismissal of the proceeding may resolve the dispute giving rise to the Complaint in this docket. Accordingly, the Examiner finds and concludes that a suspension of the procedural schedule would encourage settlement, as contemplated by K.A.R. 82-1-217(b). The Examiner therefore suspends the procedural schedule for three weeks to permit the parties to formalize their settlement agreement and to allow for the filing of a Motion to Dismiss the docket. In making this ruling, the parties should understand that if a satisfactory resolution of this matter is not reached by March 14, 2019, the Examiner will schedule a status conference at which time the procedural schedule will be reinstituted and the dates for meeting the various timelines discussed on February 13, 2019, will be reestablished taking into account the time interval that has occurred and setting a reasonable time for a decision.

8. ITG filed a response to the Motion to Suspend Proceeding, indicating it had no objection to suspending the proceeding to address the merits of the Complaint, but maintained a ruling on its Petition for Intervention should proceed to facilitate planning or to minimize expense. The Examiner does not think it would be appropriate to make a ruling on the requests for intervention at this time. Nex-Tech, the Respondent, has not filed its Answer and the pleadings of the parties have not been finalized to know the full scope of this proceeding. Equally true is the fact that Ideatek, as the Complainant, has sought a resolution of this matter to, in part, minimize legal expenses, and proposes as part of its request to postpone filing responses to the Petitions to Intervene. Additionally, it would be premature for a ruling on the intervention requests because the various factors embodied within K.A.R. 82-1-225(3) would not be ripe for decision. The

record at this point would not permit full distillation of the factors involving intervention such as the orderly and prompt conduct of the proceedings and any conditions that might be imposed for intervention, given the scope of the proceedings. Adding parties at this point of the proceedings could also impact the ability of the parties to reach a final resolution of this matter, as more filings and argument would be required to process the intervention requests. Making a ruling on the intervention requests, therefore, would be premature and should be postponed pending the outcome of the parties attempt to formalize their tentative agreement to reach settlement.

WHEREFORE, the Examiner concludes that:

(A) A suspension of the procedural schedule is granted to facilitate the parties attempt to formalize a settlement agreement;

(B) A decision on the Independent Telecommunications Group's Petition for Leave to Intervene and the State Independent Alliance's Petition to Intervene shall await the filing of the responsive pleadings of Rural Telephone Service Co. d/b/a Nex-Tech and Ideatek Telcom, LLC.

(C) This Order will be served by electronic service. This is a procedural order and constitutes non-final agency action.

(D) The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further order or orders as it may deem necessary.

BY THE HEARING EXAMINER

/s/ Walker Hendrix
Walker Hendrix

Dated: February 21, 2019

CERTIFICATE OF SERVICE

19-RRLT-277-COM

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of
02/21/2019
electronic service on _____.

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