



Administrative Office of the Courts

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Supreme Court overturns regulatory decision about telecommunications company

SANTA FE – The state Supreme Court today reversed a regulatory agency’s decision to permanently ban a company from becoming a provider of discounted telecommunications services to low-income consumers in New Mexico.

In a unanimous opinion, the Court concluded that the New Mexico Public Regulation Commission lacked the authority under the law to forever prohibit Q Link Wireless LLC from petitioning the regulatory agency in the future for designation as an eligible telecommunications carrier (ETC).

Q Link petitioned the PRC in 2012 for ETC designation to make it eligible for money from the federal Universal Service Fund to provide telecommunication services in tribal and non-tribal areas under the Lifeline program. Companies provide telephone and broadband internet service at a discounted cost to low-income consumers who qualify for the program and receive a reimbursement from the federal fund.

Q Link filed a motion to withdraw its petition in November 2019. Rather than ruling on that motion, a PRC hearing examiner recommended more than a year later that the petition be dismissed with prejudice and the company permanently banned from again seeking an ETC designation. The recommended decision found an alleged “pattern of concealment, evasion and misrepresentation” by Q Link during the regulatory proceeding and concluded that the “public interest ... would not be served by designating Q Link as an ETC in New Mexico.”

The PRC issued an order in April 2021 adopting the hearing examiner’s recommended decision in full. Q Link appealed the regulator’s decision.

In an opinion by Justice Michael E. Vigil, the Court stated that neither the hearing examiner’s recommended decision nor PRC’s final order “cite any authority allowing the Commission to dismiss Q Link’s petition with prejudice to permanently bar Q Link from ever filing a petition in the future.”

“This Court has not found, and the Commission has not identified, any provision within federal or state law that allows the Commission to dismiss an ETC petition with prejudice with this consequence. We therefore conclude that the Commission did not have the authority to dismiss Q Link’s petition with prejudice and bar Q Link from ever again seeking designation as an ETC,” the Court wrote.

The justices invalidated the PRC’s final order and sent the case back to the regulatory agency for further proceedings.

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To read the decision in *Q Link Wireless LLC v. New Mexico Public Regulation Commission*, No. S-1-SC-38812, please visit the New Mexico Compilation Commission's website using the following link:

<https://nmonesource.com/nmos/nmsc/en/item/521794/index.do>