

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

RECEIVED

APR 25 2005

IN THE MATTER OF THE PETITION
OF MCLEODUSA TELECOMMUNICATIONS
SERVICES, INC. FOR ENFORCEMENT OF
AN INTERCONNECTION AGREEMENT
WITH QWEST CORPORATION

TC05-057

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

MOTION TO SUPPLEMENT
RECORD

Qwest Corporation ("Qwest"), by and through its counsel, respectfully asks the Public Utilities Commission to allow it to supplement the record in this case. In support, Qwest states:

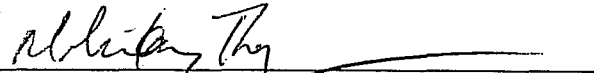
1. Qwest filed a Motion to Dismiss McLeodUSA Telecommunication Services, Inc.'s Petition for Enforcement of Interconnection Agreement with Qwest Corporation ("Petition") on April 15, 2005. Qwest also filed motions to dismiss McLeod's Petition in other states in Qwest's region.

2. On April 21, 2005, the Utah Public Service Commission entered an Order dismissing McLeod's Petition as moot. For this Commission's review, Qwest hereby submits the Utah Public Service Commission's decision as a supplement to the Motion to Dismiss it filed on April 15th and to the record in this docket.

WHEREFORE, Qwest respectfully asks the Commission to enter an order allowing Qwest to supplement the record in this case with the submittal of the attached Utah Public Service Commission Order.

Respectfully submitted this 22nd day of April, 2005.

QWEST CORPORATION

By: 

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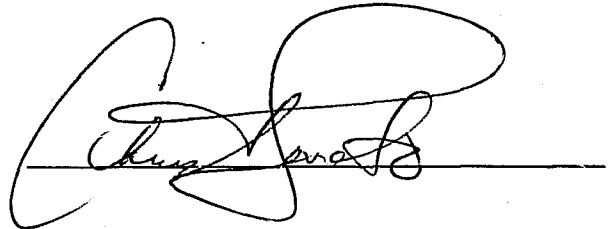
CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of April, 2005, an original and 10 copies of the foregoing **QWEST CORPORATION'S MOTION TO SUPPLEMENT RECORD** was served upon the following party:

Ms. Pam Bonrud
Executive Secretary
South Dakota Public Utilities Commission
State Capitol Building
500 East Capitol Avenue
Pierre, SD 57501-5070

a copy was also sent to the following:

Brett M. Koenecke
MAY, ADAM, GERDES & THOMPSON LLP
503 South Pierre Street
PO Box 160
Pierre, SD 57501-0160

A handwritten signature in black ink, appearing to read "Brett M. Koenecke", is written over a horizontal line. The signature is stylized and cursive.

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Petition of McLeod)	
USA Telecommunications Services, Inc.,)	<u>DOCKET NO. 05-049-62</u>
for Enforcement of Interconnection)	
Agreement with Qwest Corporation)	<u>ORDER GRANTING SUPPLEMENTAL</u>
)	<u>MOTION TO DISMISS</u>

ISSUED: April 21, 2005

SYNOPSIS

Qwest having withdrawn the security deposit demand on which McLeod's complaint was based, we dismiss.

By The Commission:

On March 30, 2005, McLeod USA Telecommunications Services, Inc. ("McLeod") filed a Petition for Enforcement of Interconnection Agreement with Qwest ("Petition") seeking Commission ruling "that Qwest may not disconnect or discontinue providing telecommunications services under the Parties' Interconnection Agreement or demand a security deposit from McLeod USA at this time." McLeod's Petition was based on a March 21, 2005, letter from Qwest demanding payment of a security deposit. Qwest's letter indicated that if the security deposit were not paid within ten days Qwest would "commence the process of terminating the Interconnection Agreement, suspending order activity, disconnecting services, and/or any other remedy available to it under law or equity in the State of Utah."

On April 13, 2005, following scheduling of an expedited hearing in this matter, Qwest formally withdrew its demand for a security deposit and filed a Supplemental Motion to Dismiss seeking dismissal of McLeod's complaint as moot.

On April 19, 2005, the parties filed pre-hearing briefs. In its brief, McLeod

DOCKET NO. 05-049-62

-2-

responded to Qwest's Supplemental Motion to Dismiss arguing that Qwest's withdrawal of its deposit demand did not moot its complaint since Qwest has failed to acknowledge that it may only demand a deposit under the Interconnection Agreement ("ICA") if McLeod fails to make timely payments under the ICA and that the ICA's dispute resolution process would apply to a dispute over any future deposit demand. Qwest's brief re-iterates its belief that McLeod's complaint is moot and should therefore be dismissed.

In its Petition, McLeod made clear that the basis for its complaint was Qwest's demand for a security deposit. That demand has since been withdrawn. Qwest has not attempted to invoke the ICA provisions relating to default for failure to pay a deposit, yet McLeod asks the Commission to rule that "in the event" Qwest does so the ICA's dispute resolution process would apply. McLeod also seeks a determination of the circumstances under which Qwest may demand a security deposit under the ICA, even though no such demand is now before the Commission. McLeod's complaint is moot. The Commission declines to provide the advisory opinion which McLeod now seeks in its place.

Therefore, based upon the foregoing information, and for good cause appearing, the Administrative Law Judge enters the following proposed ORDER:

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

The complaint filed herein is dismissed without prejudice. Further proceedings in this docket previously scheduled for April 22 and 25, 2005, are hereby canceled.

DATED at Salt Lake City, Utah, this 21st day of April, 2005.

/s/ Steven F. Goodwill
Administrative Law Judge

DOCKET NO. 05-049-62

-3-

Approved and Confirmed this 21st day of April, 2005, as the Report and Order of
the Public Service Commission of Utah.

/s/ Ric Campbell, Chairman

/s/ Ted Boyer, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary
G#44113