

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE PETITION OF)	ORDER APPROVING
MCLEODUSA TELECOMMUNICATIONS)	STIPULATION FOR
SERVICES, INC. FOR ENFORCEMENT OF)	DISMISSAL
INTERCONNECTION AGREEMENT WITH)	
QWEST CORPORATION)	TC05-057

On March 30, 2005, the Public Utilities Commission (Commission) received a Petition for Enforcement of Interconnection Agreement with Qwest Corporation and Motion for Emergency Relief from McLeodUSA Telecommunications Services, Inc. (McLeodUSA). On March 31, 2005, the Commission received a Supplemental Filing from McLeodUSA.

An Ad Hoc Commission meeting was scheduled on an expedited basis for March 31, 2005, at 4:15 P.M. to hear McLeodUSA's Motion for Emergency Relief seeking an order prohibiting Qwest Corporation (Qwest) from disconnecting service to McLeodUSA or suspending order activity. Notice of the hearing was transmitted to the parties and other interested persons electronically prior to 4:00 P.M. on March 30, 2005. The Motion was heard as scheduled. McLeodUSA and Qwest appeared through counsel. Qwest stated that its appearance was a special appearance without prejudice to its rights to contest both the procedure and notice of the hearing on McLeodUSA's Motion and the Commission's jurisdiction.

After considering the Motion, McLeodUSA's Supplemental Filing, Qwest's submissions to the Commission received as Hearing Exhibits 1 and 2 and the arguments, representations and stipulations of the parties on the record, the Commission voted unanimously (i) to deny McLeodUSA's Motion for Emergency Relief, (ii) to order Qwest to provide the Commission with immediate notice of material developments in *McLeodUSA Telecommunications Services, Inc. v. Qwest Corporation and Qwest Communications Corporation*, Case No. C 05-0039-MWB, United States District Court for the Northern District of Iowa and the parallel case involving the same res pending in the United States District Court for the District of Colorado, Civ. No. 05-WM-506-OES (Federal Cases) and (iii) to order Qwest to give the Commission and McLeodUSA at least 72 hours notice prior to any action to disconnect service to McLeodUSA or suspend order activity under the parties' Interconnection Agreement. An Order Denying Motion for Emergency Relief and Requiring Notice was issued on April 1, 2005.

The Commission's denial of McLeodUSA's Motion was based upon Qwest's representation that the Iowa District Court's TRO and any TRO issued by the Colorado District Court prevent Qwest from disconnecting service or suspending order activity under the parties' Interconnection Agreement in South Dakota and that there is therefore no imminent threat of irreparable harm at this time. The Commission's order requiring notice of the developments in the Federal Cases and of Qwest's intention to disconnect service or suspend order activity was based upon its finding that such notice is required to afford

McLeodUSA and the Commission, respectively, of adequate time to seek alternative relief and schedule and notice any resulting proceeding.

On April 18, 2005, the Commission received a Motion to Dismiss from Qwest. On April 19, 2005, the Commission received an Answer from Qwest. On April 25, 2005, the Commission received a Motion to Supplement Record from Qwest. On May 13, 2005, the Commission received a Stipulation for Dismissal from McLeodUSA which was signed by McLeodUSA and Qwest.

The Commission has jurisdiction in this matter pursuant to SDCL Chapter 49-31.

At its regularly scheduled meeting of May 24, 2005, the Commission considered this matter. The Commission voted unanimously to approve the Stipulation for Dismissal. It is therefore

ORDERED, that the Stipulation for Dismissal is hereby approved and this docket is dismissed without prejudice.

Dated at Pierre, South Dakota, this 26th day of May, 2005.

CERTIFICATE OF SERVICE
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.
By: <u><i>Delaine Kolbo</i></u>
Date: <u><i>5/26/05</i></u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Gary Hanson
GARY HANSON, Chairman

Robert K Sahr
ROBERT K. SAHR, Commissioner *sk*

Dustin M Johnson
DUSTIN M. JOHNSON, Commissioner