

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

In the Matter of the Request for Approval of)	
Negotiated Agreement Under the)	
Telecommunications Act of 1996 Between)	DOCKET NO. UT-993007
)	
MCLEODUSA TELECOMMUNICATIONS)	ORDER APPROVING
SERVICES, INC.,)	NEGOTIATED FIFTH
)	AMENDED AGREEMENT
and)	ADDING PROVISIONS FOR
)	CLEC-TO-CLEC CROSS
QWEST CORPORATION, f/k/a U S WEST)	CONNECTIONS
COMMUNICATIONS, INC.)	
.....)	

BACKGROUND

1 This matter comes before the Washington Utilities and Transportation Commission (Commission) for approval of a negotiated fifth amended agreement (Amended Agreement) under the Telecommunications Act of 1996 (Telecom Act). The Amended Agreement is between McLeodUSA Telecommunications Services, Inc., (McLeodUSA), and Qwest Corporation (Qwest), f/k/a U S WEST Communications, Inc. On June 8, 2000, the parties filed a joint request that McLeodUSA adopt Qwest's Statement of Generally Available Terms (SGAT). The SGAT has not been approved by the Commission; however, the Commission allowed the agreement between McLeodUSA and Qwest to go into effect on August 30, 2000. The Commission approved a first amended agreement on December 13, 2000, a second amended agreement on January 31, 2001, a third amended agreement on July 11, 2001, and a fourth amended agreement on August 8, 2001. The Commission ordered that in the event the parties amended their agreement, the amended agreement would be deemed a new agreement under the Telecom Act and must be submitted to the Commission for approval. The parties filed a joint request for approval of a fifth amendment on January 10, 2002.

MEMORANDUM

2 The Amended Agreement between McLeodUSA and Qwest was brought before the Commission at its regularly scheduled open meeting held on January 30, 2002, at its offices in Olympia, Washington. The Commission granted its approval of the Amended Agreement as negotiated and requested by the parties.

FINDINGS OF FACT

3 The Commission is an agency of the State of Washington vested by statute with the
authority to regulate the rates, rules, regulations, practices, accounts, securities, and
transfer of public service companies, including telecommunications companies.

4 Section 252(e)(1) of the Telecom Act requires parties to a negotiated agreement to
submit the agreement to the Commission for approval. Section 252(e)(2)(A) states
that the Commission may only reject an agreement (or any portion thereof) adopted
by negotiation if it finds that:

5 (i) the agreement (or any portion thereof) discriminates against a
telecommunications carrier not a party to the agreement; or

6 (ii) the implementation of such agreement or portion is not consistent
with the public interest, convenience, and necessity.

7 Qwest is engaged in the business of furnishing telecommunications services,
including, but not limited to, basic local exchange service within the state of
Washington.

8 McLeodUSA is authorized to provide telecommunications services to the public in
the state of Washington.

9 On June 8, 2000, the parties filed a joint request that McLeodUSA adopt Qwest's
SGAT. The SGAT has not been approved by the Commission; however, the
Commission allowed the agreement between McLeodUSA and Qwest to go into
effect on August 30, 2000. The Commission approved a first amended agreement on
December 13, 2000, a second amended agreement on January 31, 2001, a third
amended agreement on July 11, 2001, and a fourth amended agreement on August 8,
2001. The Commission ordered that in the event the parties amended their
agreement, the amended agreement would be deemed a new agreement under the
Telecom Act and must be submitted to the Commission for approval.

10 On January 10, 2002, the parties filed with the Commission a joint request for
approval of a fifth amendment to the previously approved interconnection agreement,
pursuant to the Telecom Act.

11 McLeodUSA and Qwest voluntarily negotiated the entire amendment.

12 The Amended Agreement does not discriminate against any other
telecommunications carrier.

- 13 The Amended Agreement will facilitate local exchange competition in the state of Washington by enabling McLeodUSA to expand its presence in the local exchange market and increase customer choices for local exchange services.

CONCLUSIONS OF LAW

- 14 The Commission has jurisdiction over the subject matter and all parties to this proceeding.
- 15 The Amended Agreement is consistent with the public interest, convenience, and necessity.
- 16 The Amended Agreement meets the requirements of Sections 251 and 252 of the Telecom Act, including Section 252(e).
- 17 The laws and regulations of the State of Washington and Commission orders govern the construction and interpretation of the Amended Agreement. The Amended Agreement is subject to the jurisdiction of the Commission and the courts of Washington state.

ORDER

THE COMMISSION ORDERS:

- 18 The Amended Agreement between McLeodUSA Telecommunications Services, Inc., and Qwest Corporation, f/k/a U S WEST Communications, Inc., which the parties filed on January 10, 2002, is approved and effective as of the date of this order.
- 19 In the event that the parties revise, modify, or amend the agreement approved in this order, the revised, modified, or amended agreement will be deemed to be a new negotiated agreement under the Telecom Act and must be submitted to the Commission for approval, pursuant to 47 U.S.C. § 252(e)(1) and relevant provisions of state law, prior to taking effect.
- 20 The laws and regulations of the State of Washington and Commission orders govern the construction and interpretation of the Amended Agreement. The Amended Agreement is subject to the jurisdiction of the Commission and the courts of Washington state.

DATED at Olympia, Washington, and effective this 30th day of January, 2002.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner