

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION**

QWEST CORPORATION,

Complainant,

v.

MCLEODUSA TELECOMMUNICATIONS
SERVICES, INC., d/b/a PAETEC BUSINESS
SERVICES.

Respondents.

Docket No. UT- 090892

QWEST CORPORATION'S
MOTION FOR SUMMARY
DETERMINATION

I. INTRODUCTION

- 1 Pursuant to RCW 80.04.110 and WAC 480-07-305, Qwest Corporation (“Qwest”) brought a Complaint against McLeodUSA Telecommunications Services, Inc., d/b/a PAETEC Business Services (“McLeod”). In accordance with the agreed upon schedule, Qwest hereby files its Motion for Summary Determination and Memorandum in Support of Motion for Summary Determination.
- 2 Motions for summary determination are governed by WAC 480-07-380.¹ This matter is appropriate for summary determination because there are no genuine

¹ WAC 480-07-380 2) **Motion for summary determination.**

(a) **General.** A party may move for summary determination of one or more issues if the pleadings filed in the proceeding, together with any properly admissible evidentiary support (e.g., affidavits, fact stipulations, matters of which official notice may be taken), show that there is no genuine issue as to any

issues as to any material fact, and Qwest is entitled to judgment as a matter of law that McLeod's wholesale service offering charge is unreasonable, discriminatory, and unlawful.

- 3 This motion is supported by the Memorandum in Support of Summary Determination, Declaration of Robert Weinstein and attached exhibits.

DATED this 19th day of October, 2009.

QWEST

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material fact and that the moving party is entitled to judgment as a matter of law. In considering a motion made under this subsection, the commission will consider the standards applicable to a motion made under CR 56 of the Washington superior court's civil rules.