

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

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|--------------------|---|----------------------|
| MCLEODUSA |) | |
| TELECOMMUNICATIONS |) | DOCKET NO. UT-053024 |
| SERVICES, INC., |) | |
| |) | |
| Petitioner, |) | ORDER NO. 02: |
| |) | |
| v. |) | |
| |) | GRANTING LEAVE TO |
| QWEST CORPORATION, |) | WITHDRAW PETITION; |
| |) | CLOSING DOCKET |
| Respondent. |) | |
| |) | |

MEMORANDUM

1 On March 31, 2005, McLeodUSA Telecommunications Services, Inc. (McLeod), filed with the Commission a Petition for Enforcement of Interconnection Agreement with Qwest Corporation (Qwest).¹ The Petition states the dispute is over Qwest’s right under the interconnection agreement to demand security deposits from McLeod and to discontinue services should McLeod not comply with Qwest’s demand. Qwest states in its Answer that “[t]he genesis is an unrelated issue between McLeod and Qwest Communications Corporation (“QCC”), regarding charges and payments pertaining to certain telecommunications traffic.” In other words, the parties’ relationship under their interconnection agreement became contentious, at least in part, because it was

¹ McLeod also filed a motion for emergency relief on March 31, 2005. McLeod asked that the Commission provide emergency relief and consider ruling that Qwest may not disconnect or discontinue providing telecommunications services under the Parties’ Interconnection Agreement or demand a security deposit from McLeod at this time. On April 1, 2005, the Commission entered Order No. 01—Order Denying Motion for Emergency Adjudication.

drawn into a billing dispute over services mutually provided under other agreements and tariffs.

2 On April 13, 2005, Qwest withdrew its demand for a security deposit. Qwest filed a Motion To Dismiss McLeod's Petition on April 15, 2005, arguing withdrawal of its demand rendered the matter moot. McLeod filed its Response to Qwest's Motion on April 21, 2005, disputing Qwest's Motion and arguing, among other things, the so-called voluntary cessation exception to the mootness doctrine.² The Commission heard argument on the Motion on April 27, 2005.

3 On April 29, 2005, prior to the Commission taking any action on the pending Motion, McLeod filed its request for leave to withdraw its Petition, without prejudice. The basis for McLeod's request is that the parties "have made sufficient progress in resolving their region-wide dispute over security deposits through business negotiations that McLeodUSA no longer seeks a resolution of these issues by the Commission." McLeod states that it has consulted Qwest and the company has no objection to the request.

4 **COMMISSION DETERMINATION:** McLeod has shown good cause for the Commission to grant leave to McLeod to withdraw its Petition, without prejudice. The Commission determines that the Petition should be treated as withdrawn and this docket should be closed.

5 SO ORDERED.

² McLeod Response at ¶ 4 (citing *Friends of the Earth, Inc. v. Laidlaw Environmental Servs., Inc.*, 528 U.S. 167, 189, 120 S. Ct. 693, 145 L. Ed. 2d 610, 632 (2000) (quoting *City of Mesquite v. Aladdin's Castle, Inc.*, 455 U.S. 283, 289 (1982); *United States v. W.T. Grant Co.*, 345 U.S. 629, 632 (1953); *United States v. Concentrated Phosphate Export Assn., Inc.*, 393 U.S. 199, 203 (1968)); *State v. Ralph Williams' North West Chrysler Plymouth, Inc.*, 87 Wn.2d 298, 312, 553 P.2d 423 (1976)).

DATED at Olympia, Washington and effective this 29th day of April, 2005.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner

NOTICE TO PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 and WAC 480-07-870.