

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye  
Marshall Johnson  
Thomas Pugh  
Phyllis A. Reha

Chair  
Commissioner  
Commissioner  
Commissioner

In the Matter of the Petition of McLeodUSA  
for Commission Mediation Pursuant to 47  
U.S.C. § 252(a)(2) of a Dispute with Qwest

ISSUE DATE: June 22, 2007

DOCKET NO. P-5323,421/M-07-609

ORDER APPOINTING MEDIATOR

**PROCEDURAL HISTORY**

On May 9, 2007, McLeodUSA Telecommunications Services, Inc. (McLeod or the Company) filed a request in accordance with Section 252(a)(2) of the Telecommunications Act of 1996 (Act) for the Commission to mediate whether the appropriate starting point for negotiations for a successor interconnection agreement (ICA) between the companies should be the companies' existing interconnection agreement or a template agreement proposed by Qwest.

On May 29, 2007, North Star Access filed comments supporting McLeod's position to use its existing ICA as the template to begin negotiations for a replacement ICA.

On May 30, 2007, Integra, Qwest and the Minnesota Department of Commerce (the Department) filed comments. Integra supported McLeod's position to use the existing ICA as the template to begin negotiations. Qwest supported the use of its ICA template to begin negotiations. The Department supported mediation of this issue.

On June 4, 2007, Time Warner filed comments supporting McLeod's request for mediation.

The Commission met on June 14, 2007 to consider this matter.

**FINDINGS AND CONCLUSIONS**

**I. Starting Point Issue**

McLeod and Qwest have been unable to agree on which document should be used as the starting point for their negotiations for a replacement ICA. McLeod has proposed using the companies'

current ICA or, in the alternative, Eschelon's recently negotiated ICA with Qwest. Qwest has rejected those proposals and proposes to use its template ICA.

McLeod and Qwest have agreed, however to mediate the issue before an ALJ assigned by the Office of Administrative Hearings (OAH) and appointed in this Order. The specific issue the companies have agreed to mediate is whether the starting point of their negotiations should be their current interconnection agreement, Eschelon's recently negotiated ICA with Qwest, a template interconnection agreement proposed by Qwest, or some other document.

The Commission will appoint Administrative Law Judge Kathleen D. Sheehy to mediate the referred issue. Mailing address: Office of Administrative Hearings, 100 Washington Square — Suite 1700, Minneapolis, MN 55401-2138. Phone: 612-341-7602. E-mail: [Kathleen.Sheehy@state.mn.us](mailto:Kathleen.Sheehy@state.mn.us).

## II. Time Concern

It appears that the companies have made little progress in negotiating a replacement ICA. In fact, they have been unable to agree on what document to use as a starting point for their negotiations. McLeod's request for mediation was filed to facilitate negotiations of the replacement ICA between McLeod and Qwest.

If negotiations for a replacement ICA are unsuccessful, these parties will likely file a request for arbitration with the Commission in accordance with the Telecommunications Act of 1996 (the Act). The Act provides a 25 day window for parties to request arbitration. The window opens on the 130th day after negotiations begin and closes on the 160th day after negotiations begin.<sup>1</sup>

The Commission notes that the issue referred for mediation by this Order is simply the starting point for negotiations for a replacement ICA. This fact underscores the desirability of resolving the starting point issue expeditiously. The Commission requests that the Administrative Law

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<sup>1</sup> In a letter to McLeod dated March 2, 2007 and made part of this record as Attachment A to McLeod's initial (May 9, 2007) filing, Qwest stated that the following timeframes will govern the negotiation and arbitration windows:

Negotiation Period Commences	March 6, 2007
Arbitration Window Opens	July 19, 2007
Arbitration Window Closes	August 13, 2007

The Commission simply notes these reported dates and makes no finding or representation in this Order as to the absolute accuracy of these dates.

Judge (ALJ) appointed to mediate this issue bear these concerns in mind in scheduling the mediation.

**ORDER**

1. The Commission hereby refers the following issue to the Office of Administrative Hearings for mediation:

Whether the starting point for the negotiation of a replacement interconnection agreement (ICA) between McLeod and Qwest should be the companies' current ICA, Eschelon's recently negotiated ICA with Qwest, Qwest's proposed template ICA, or some other document.

2. The Commission hereby appoints Administrative Law Judge Kathleen D. Sheehy to mediate this issue between the companies.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

(S E A L)

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