

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION

In the Matter of the Complaint of Prairie
Wave Communications, Inc. (f/k/a
McLeod USA) Against Qwest Corporation
Regarding the Payment of Switched
Access Charges.

FIRST PREHEARING ORDER

A prehearing conference in this matter was held before Administrative Law Judge Allan W. Klein on October 24, 2002 in St. Paul, Minnesota.

William P. Heaston, Corporate Counsel, Prairie Wave Communications, Inc., 5100 South McLeod Lane, Sioux Falls, SD 57108 and Dan M. Lipschultz, Moss & Barnett, 90 South Seventh Street, Suite 4800, Minneapolis, MN 55402-4129 appeared on behalf of the Complainant herein, Prairie Wave Communications, Inc.

Michael J. Bradley, Moss & Barnett, 90 South Seventh Street, Suite 4800, Minneapolis, MN 55402-4129 appeared on behalf of the Intervenor, the Small CLEC Coalition.

Steven H. Alpert, Assistant Attorney General, 525 Park Street, Suite 200, St. Paul, MN 55103 appeared on behalf of the Department of Commerce.

Robert E. Cattanach, Dorsey & Whitney, 50 South Sixth Street, Suite 1500, Minneapolis, MN 55402-1498 appeared on behalf of Qwest Corporation.

Kevin O'Grady, staff member, appeared on behalf of the Minnesota Public Utilities Commission staff.

Based on the discussions during the prehearing conference, the Administrative Law Judge makes the following:

ORDER

1. Parties. The parties named in the Commissioner's Notice and Order for Hearing are Prairie Wave, Qwest, and the Minnesota Department of Commerce. At the prehearing conference, the Small CLEC Coalition orally petitioned for intervention, and it was determined that no party had an objection to the Petition. The Administrative Law Judge granted it. Any other person allowed to intervene in this proceeding after the date of this Order shall be bound by the terms of this Order.

2. Discovery. Discovery may commence immediately, and previously served discovery shall be deemed to have been served on October 24. The parties shall have ten business days from receipt of the discovery request to respond to it. All discovery must be responded to no later than March 28, 2003. Any party disputing the reasonableness of a request or the sufficiency or timing of a response shall promptly bring a motion for resolution by the Administrative Law Judge.

3. Additional discovery items. A copy of all discovery requests shall be mailed to all parties of record, but not to the Administrative Law Judge. There shall be a continuing obligation to update and supplement information responses. The information need not be supplied as a matter of course to all other parties, unless specifically requested by a party. Information requests received after 3:00 p.m. on business days or on weekends or state holidays shall be considered to be received on the following business day, except that any U.S. mail received during business hours shall be considered to be received on the same day. Further discovery may be had in accordance with Minn. Rule Part 1400.6700-6900 to the extent not inconsistent with the discovery provisions set forth in this Order.

4. Prefiled testimony. Direct testimony shall be filed by January 17. Rebuttal testimony shall be filed by February 21. Surrebuttal testimony shall be filed by March 21.

5. Additional items relating to testimony. Prefiled direct testimony shall not be bound into the record, but shall be received as an exhibit. Prefiled testimony that is amended or that is not offered into the record shall be considered withdrawn and the sponsoring witness may not be cross-examined concerning the withdrawn testimony. Except for good cause shown, all substantive revisions or corrections to any prefiled testimony shall be made in writing and served upon the Administrative Law Judge and the parties by e-mail no later than three days prior to commencement of the evidentiary hearing.

6. Examination of witnesses. Parties shall examine and cross-examine witnesses through their attorneys, if they are represented by counsel. Any party not represented by counsel may examine and cross-examine each witness through any one representative chosen by the party. Except for good cause shown, objections by any party relating to the qualifications of a witness or the admissibility of any portion of a witness's prefiled testimony shall be considered waived unless the objecting party states in writing its objection with particularity to the Administrative Law Judge and serves a copy of such objections on the Commission and all other parties prior to commencement of the evidentiary hearing. If an objection is made by a party, the parties shall be permitted to waive further foundation for the objections through cross-examination of the witness. Any prefiled testimony which is not objected to shall be admitted during the evidentiary hearings without the necessity of laying further foundation for the testimony.

7. Evidentiary hearing. The evidentiary hearing shall begin on April 7, and continue so long as necessary.

8. Filing requirements. All documents filed, including prefiled testimony, excluding information requests and responses, shall be filed as follows:

- (a) Before the Administrative Law Judge's report is issued, the parties shall file the original plus one copy with the Administrative Law Judge. The original of any prefiled testimony will be marked as an exhibit at the hearing.
- (b) After the Administrative Law Judge's report is issued, the parties shall file the original of all documents with the Commission.
- (c) Copies of all documents shall be served on the persons listed on the attached service list. When filing with the Commission, 15 copies shall be supplied.
- (d) The effective date of filing shall be the date the document is mailed or delivered to the Office of Administrative Hearings or to the Executive Secretary of the Commission.
- (e) Proof of service shall be filed with each filed document or within three business days thereafter.

Dated this __28th__ day of October, 2002.

/s/ Allan W. Klein

ALLAN W. KLEIN
Administrative Law Judge