

B
CB
RO
SM

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held at its office in Jefferson City on the 25th day of June, 1998.

In the Matter of the Joint Application of)
McLeodUSA Telecommunications Services, Inc.)
and Communications Cable-Laying Company, Inc.) Case No. TM-98-503
d/b/a Dial US for Approval of Transfer of)
Assets.)

ORDER APPROVING SALE OF ASSETS

On May 11, 1998, McLeodUSA Telecommunications Services, Inc. (McLeodUSA) and Communications Cable-Laying Company, Inc. d/b/a Dial US (Dial US) filed a joint application pursuant to Section 392.300, RSMo 1994, seeking Commission approval for a sale of assets from Dial US to McLeodUSA. Dial US and McLeodUSA (Applicants) stated that they have entered into an agreement whereby McLeodUSA will acquire substantially all of the assets of Dial US if the Commission approves the transaction.

Dial US is a Missouri corporation with its principal offices located at 333 Park Central East, Woodruff Building, Suite 926, Springfield, Missouri 65806. The Commission granted Dial US a certificate of service authority to provide intrastate, interexchange telecommunications services on July 24, 1986 in Case No. TA-84-140. The Commission granted Dial US a certificate of service authority to provide basic local telecommunications services on December 20, 1996 in Case No. TA-96-347, and approved its basic local tariff on December 31, 1996.

McLeodUSA, a wholly owned subsidiary of McLeodUSA Incorporated, is an Iowa corporation with its principal offices at McLeodUSA Technology Park, 6400 C Street SW, Cedar Rapids, Iowa 52406-3177. The Commission

granted McLeodUSA a certificate of service authority to provide intrastate, interexchange telecommunications services on June 14, 1996 in Case No. TA-96-291¹. McLeodUSA has also been granted a conditional certificate of service authority to provide basic local telecommunications services that will become effective only if McLeodUSA's basic local tariff is approved by the Commission and only when any such approved tariff takes effect. The Commission conditionally granted McLeodUSA's basic local certificate on May 19 in Case No. TO-98-288.

According to the Applicants, Dial US would transfer substantially all of the tangible and intangible assets used for or held for use in connection with the conduct of the business and operations of providing basic local and interexchange telecommunications service in Missouri. The specific assets to be transferred are listed in Attachment A to the application. Following completion of the transfer of assets, McLeodUSA would provide the interexchange and basic local services now provided by Dial US to its customers in Missouri under the same terms, conditions and rates that Dial US now serves those customers. McLeodUSA's tariff would incorporate current Dial US services and rates. Current Dial US customers would have the option to either switch to McLeodUSA rates or remain on their current Dial US rate plan. Unless the customer made an affirmative choice, there would be no change in that customer's service other than the name of the company providing the service. Dial US would cease doing business in Missouri upon completion of the transaction and its certificates would be canceled.

¹ At the time the certificate was granted, McLeodUSA was still named McLeod Telemanagement, Inc. The Commission approved the company's request for a name change on October 15, 1997 in Case No. TO-98-39.

The Applicants stated that the proposed transaction is not detrimental to the public interest because McLeodUSA is prepared to provide reliable, high quality service to current customers of Dial US in Missouri under the same terms and rates as Dial US has provided those services. The acquisition of Dial US's assets would give McLeodUSA a customer base from which to develop its presence in Missouri as a meaningful competitor to incumbent local exchange companies.

The Applicants represented that notice of the transfer of assets would be provided to Dial US's Missouri customers upon approval of the transaction by the Commission. Applicants also represented that the transfer would have no impact on the tax revenues of any political subdivision in the state of Missouri, and that neither McLeodUSA nor Dial US has any pending or final decisions or judgments against it from any state or federal agency involving its rates or its service to customers.

Applicants requested in their application that the Commission issue an order approving the proposed transaction no later than June 30. Applicants stated that expedited approval would minimize customer confusion and assist the Applicants in planning and carrying out a smooth transition for customers.

When McLeodUSA and Dial US filed their application in this case, they had not yet filed tariff sheets in Case No. TO-98-288 because McLeodUSA did not have a Commission approved interconnection agreement. McLeodUSA filed a pleading entitled Disclosure of Interconnection Agreement, Notice of Tariff Filing, and Request for Coordination of Cases (Disclosure) in Case No. TO-98-288 on May 28, the same date that it filed basic local exchange tariff sheets. In the Disclosure, McLeodUSA

informed the Commission that McLeodUSA has been assigned the rights of Dial US in the interconnection agreement with Southwestern Bell Telephone Company (SWBT) that was approved by the Commission in Case No. TO-96-440 on September 6, 1996. McLeodUSA asserted in the Disclosure that the assignment would become effective upon the parties' consummation of the transaction for which approval is sought in this case. McLeodUSA also filed proposed revisions to its existing interexchange tariff. These tariff sheets were assigned Tariff File No. 9800936.

The Staff of the Commission (Staff) filed a Memorandum in this case on June 1, 1998, recommending conditional approval of the sale of assets. Staff stated that it has no objections to the proposed transfer of assets, but any Commission order approving the transaction should require the effective date of the transfer to be on the same date as McLeodUSA's basic local telecommunications tariff becomes effective in Case No. TA-98-288. Staff attached a copy of a notice to its Memorandum and recommended that the Commission order the Applicants to notify the affected customers of the transaction. Staff stated that the Applicants should be ordered to advise the Commission upon completion of the transfer of assets and simultaneously request cancellation of Dial US's interexchange and basic local exchange certificates of service authority.

On June 9, McLeodUSA filed a motion for expedited approval and additional information concerning the proposed transaction. McLeodUSA requested approval by June 15, stating that the Applicants now believe it would be possible to close the transaction before June 30 and that it would be in the best interest of the customers affected by the proposed transaction for the transfer of assets to take place as soon as possible because it would minimize the period of confusion and concern. Moreover,

McLeodUSA stated that both companies would benefit from approval by June 15 because closure of the transaction before the end of the second calendar quarter would facilitate reporting obligations. McLeodUSA asserted that Dial US is in agreement with McLeodUSA's motion.

In its June 9 pleading, McLeodUSA explained that Dial US had 4,342 customers, including interexchange and basic local subscribers, as of its last billing cycle. None of these customers would be affected by the transaction unless they chose to select another provider or chose McLeodUSA's services and rates instead of Dial US's services and rates. Because the transaction does not contemplate acquisition of stock or corporate mergers, there would be no change in the corporate structure of McLeodUSA or its parent company, McLeodUSA, Incorporated. The transaction would not directly affect the corporate existence of Dial US, but the Applicants anticipate that within 90 days of the closing of the proposed transaction Dial US would dissolve as a corporate entity and cease to exist. McLeodUSA might use the trade name Dial US following the transaction because it is one of the assets proposed to be transferred.

On June 18, 1998, McLeodUSA filed substitute tariff sheets in Tariff File No. 9800936. Staff recommended approval of McLeodUSA's proposed revisions to its interexchange tariff, noting that the revisions include all of the interexchange telecommunications services and rates that Dial US currently offers.

On June 19, McLeodUSA withdrew its May 28 basic local services tariff and filed a replacement basic local services tariff (Tariff File No. 9800994) in Case No. TA-98-288. McLeodUSA filed substitute pages to Tariff File No. 9800994 on the same date. The tariff sheets bear an effective date of July 19, but McLeodUSA requested permission to have the

tariffs take effect on less than 30 days' notice. Also on June 19, McLeodUSA filed a request that the Commission issue an order approving the sale of assets proposed in this case to become effective on or before June 30, and waived any right to object to an effective date of less than ten days. McLeodUSA advised the Commission that Dial US concurs in the request.

On June 22, the Staff filed its recommendation in Case No. TA-98-288 concerning McLeodUSA's proposed basic local exchange services tariff. Staff stated that the tariff offered rates and services similar to those currently offered by Dial US. The tariff proposed in Case No. TA-98-288 does not contain two sets of basic local rates and services, as suggested in the application filed in this case.

Upon review of the verified application, Staff's recommendation and McLeodUSA's motion to expedite and provision of additional information concerning the proposed transaction, the Commission finds that McLeodUSA's acquisition of Dial US's assets would give McLeodUSA a customer base from which to develop its presence in Missouri as a meaningful competitor to incumbent local exchange companies. Therefore, the Commission finds that the proposed transaction is not detrimental to the public interest and should be conditionally approved.

The Applicants shall transfer the Dial US customers from service under Dial US's tariff and name to service under McLeodUSA's tariff and name as soon as possible after this order takes effect. Applicants are encouraged to accomplish the transfer in as little time as possible so as to minimize customer confusion. Applicants shall notify the former Dial US customers of their right to elect McLeodUSA's rates within ten days after migrating the customers to McLeodUSA. Applicants shall

notify the Commission immediately after the migration is completed, and shall file a pleading informing the Commission of the date and form of notice sent to customers within 10 days after the customer notice is sent. Dial US's certificate and tariff shall be canceled by separate Commission order after Applicants have notified the Commission that the customers have migrated to McLeodUSA's tariff, but in no event later than 90 days after the effective date of this order.

The Commission further finds that Applicants' motion to expedite and request for issuance of an order with less than a ten-day effective date should be granted. The Commission will address the basic local services tariff sheets filed in Case No. TA-98-288, as well as the proposed assignment of Dial US's interconnection with SWBT to McLeodUSA that has been disclosed in Case No. TA-98-288, by separate order in Case No. TA-98-288. The Commission will also address Tariff File No. 9800936 by separate Commission action. The Commission will condition its approval of the transfer of assets in this case upon approval of the interconnection agreement assignment and tariffs pending in Case No. TA-98-288 and Tariff File No. 9800936, and upon the parties' compliance with the Commission's customer notice and other directives set forth in this order.

IT IS THEREFORE ORDERED:

1. That the motion for expedited approval filed by McLeodUSA Telecommunications Services, Inc. is granted.

2. That the sale of assets proposed by McLeodUSA Telecommunications Services, Inc. and Communications Cable-Laying Company, Inc. d/b/a Dial US, is conditionally approved.

3. That McLeodUSA Telecommunications Services, Inc. and Communications Cable-Laying Company, Inc. d/b/a Dial US are authorized to take any and all actions necessary to effectuate the asset sale transaction contemplated by their application as approved and specified in this order.

4. That McLeodUSA Telecommunications Services, Inc. and Communications Cable-Laying Company, Inc. d/b/a Dial US shall file a pleading with the Commission notifying the Commission of the closing date of the asset sale transaction immediately after the completion of the transaction.

5. That if the conditions for the sale of assets are fulfilled and the sale of assets is completed, McLeodUSA Telecommunications Services, Inc. and Communications Cable-Laying Company, Inc. d/b/a Dial US shall transfer all of the former customers of Communications Cable-Laying Company, Inc. d/b/a Dial US to the services of McLeodUSA Telecommunications Services, Inc. immediately following completion of the sale of assets, and shall attempt to migrate customers in as little time as technically feasible.

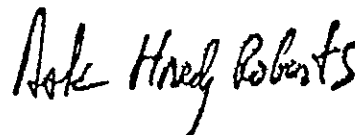
6. That McLeodUSA Telecommunications Services, Inc. and Communications Cable-Laying Company, Inc. d/b/a Dial US shall notify the former Dial US customers of their right to elect McLeodUSA's rates within ten days after migrating the customers to McLeodUSA, and shall file a pleading informing the Commission of the date and form of notice sent to customers within 10 days after the customer notice is sent.

7. That McLeodUSA Telecommunications Services, Inc. and Communications Cable-Laying Company, Inc. d/b/a Dial US shall file a

pleading informing the Commission immediately after all of the customers have been migrated to McLeodUSA Telecommunications Services, Inc.

8. That, pursuant to the parties' waiver of a ten-day effective date, this order shall be effective on June 26, 1998.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Lumpe, Ch., Crumpton, Drainer,
and Schemenauer, CC., concur.
Murray, C., absent.

Randles, Regulatory Law Judge

RECEIVED

JUN 26 1998

COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION