

1 STATE OF MISSOURI
2 PUBLIC SERVICE COMMISSION
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6 TRANSCRIPT OF PROCEEDINGS
7 Pre-hearing Conference
8 April 9, 2008
9 Jefferson City, Missouri
10 Volume 1
11
12 Duke Manufacturing Co.,)
13 Complainant,)
14)Case No.
15)TC-2008-0191
16 McLeod USA Telecommunications)
17 Services, Inc.,)
18 Respondent.)
19
20 BENJAMIN H. LANE, Presiding,
21 REGULATORY LAW JUDGE
22
23 REPORTED BY:
24 MINDY VISLAY, CCR
25 MIDWEST LITIGATION SERVICES

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1 P R O C E E D I N G S

2 JUDGE LANE: Good morning, ladies and
3 gentlemen. My name is Benjamin Lane, I'm the
4 Regulatory Law Judge assigned to this case. That's
5 Case No. TC-2008-0191, and that's Duke Manufacturing
6 Company versus McLeod USA Telecommunications Services,
7 Inc.

8 And just to clear up a preliminary matter that was
9 brought up before we went on the record, Duke has
10 adopted a fictitious corporate name very recently, and
11 that's been acknowledged by the Commission, so I'll
12 probably be contacting the data center just to change
13 the official caption of the case and to have them
14 referred to by their correct d/b/a in any subsequent
15 pleadings --

16 MR. COFFMAN: Your Honor, you're not
17 referring to Duke Manufacturing --

18 JUDGE LANE: Did I say Duke? I'm sorry,
19 that's McLeod that recently changed their d/b/a.
20 Thank you.

21 We're here today pursuant to a Commission order of
22 March 19th, 2008, scheduling a pre-hearing conference
23 in this matter.

24 Before we go any further, I guess I should go
25 ahead and start by getting entries of appearance just

1 for the record. I know that most of you, if not all
2 of you, have filled out the written forms for that.

3 Let's start with Duke Manufacturing Company.

4 MR. COFFMAN: John B. Coffman appearing on
5 behalf of Duke Manufacturing. My address is 871
6 Tuxedo Boulevard, St. Louis, Missouri 63119.

7 And also here today is general counsel for Duke
8 Manufacturing John Schierholz.

9 JUDGE LANE: Thank you very much, Mr.
10 Schierholz and Mr. Coffman, and welcome.

11 For McLeod USA Telecommunications Services?

12 MS. YOUNG: Thank you, Judge. Appearing on
13 behalf of McLeod USA, d/b/a PAETEC Business Services,
14 I am Mary Ann Young with the law firm of William D.
15 Steinmeier, P.C.

16 I have provided the court reporter with the
17 written entry of appearance for myself, along with
18 William Steinmeier of William D. Steinmeier, P.C., and
19 also Bill Haas of McLeod USA who has been granted
20 leave to appear in the case by the Commission.

21 JUDGE LANE: Thank you, Ms. Young.

22 For AT&T Missouri?

23 MR. GRYZMALA: Good morning, Your Honor,
24 Bob Gryzmala on behalf of Southwestern Bell Telephone
25 Company doing business as AT&T Missouri, at One AT&T

1 Center, St. Louis, Missouri 63101.

2 We may have one or two folks by conference bridge.

3 I don't know if they were able to make it.

4 Anyone on from AT&T? We'll take a pass.

5 JUDGE LANE: Thank you, Mr. Gryzmala.

6 For the staff of the Commission?

7 MR. HAAS: Good morning, William K. Haas

8 appearing on behalf of the staff of the Commission.

9 My address is Post Office Box 360, Jefferson City,
10 Missouri 65102.

11 JUDGE LANE: Mr. Haas, thank you.

12 And for the Office of Public Counsel?

13 MR. DANDINO: Michael Dandino, Office of
14 the Public Counsel, P.O. Box 2230, Jefferson City,
15 Missouri 65102, representing the Office of Public
16 Counsel and the public.

17 JUDGE LANE: Thank you, Mr. Dandino.

18 And I know that I want to thank McLeod for setting
19 up a conference call for some additional folks to
20 listen in and participate in this call. And now would
21 be a good time, if I missed anyone -- if I missed
22 anyone's entry of appearance, number one.

23 Is there anybody out there who needs to enter an
24 appearance over the teleconference link? No?

25 MS. FREED: Your Honor, Christine Freed

1 with Duke Manufacturing, but I don't know --

2 JUDGE LANE: Well, I'll tell you what, if
3 you would identify yourselves for the court reporter
4 just so I know who all is here.

5 MS. FREED: Christine Freed with Duke
6 Manufacturing. Our address is 2305 North Broadway,
7 St. Louis, Missouri 63102.

8 MR. COFFMAN: She's not an attorney.

9 JUDGE LANE: Yes, I understand we're
10 getting folks who aren't attorneys here, but I would
11 like to know who is present and participating in this
12 process.

13 MR. WILSON: Your Honor, this is Tim Wilson
14 from PAETEC.

15 JUDGE LANE: Yes, Mr. Wilson, thank you.

16 MR. WILSON: Our address is 929 Martha's
17 Way, Hiawatha, Iowa 52233.

18 JUDGE LANE: Anyone else?

19 MR. HAAS: This is also William A. Haas,
20 from PAETEC Business Services, that Mary Ann Young had
21 mentioned, and I was able to join the bridge.

22 JUDGE LANE: Thank you very much. I think
23 that takes care of everyone. Is that everyone on the
24 bridge? Very well.

25 I think the order of March 19th pretty much set

1 forth the reasons for the pre-hearing conference and
2 the things that we expect to achieve. And I think all
3 of you are pretty savvy and experienced in these
4 matters so there's probably no need to go over that.

5 I would say that I'm glad to see so many folks
6 here, and including, it sounds to me, like some
7 technical folks who may be able to participate in a
8 meaningful way to kind of getting to the bottom of the
9 allegations here.

10 And I can just say this; that the Commission is
11 much less interested in pointing fingers at anyone
12 than it is in making sure that, if Duke is not getting
13 the telephone service to which they are entitled under
14 the law, that that get fixed.

15 So, obviously you already know that anything
16 that's said in this pre-hearing conference would not
17 be admissible should this matter proceed to a hearing.
18 That's designed to encourage full, fair and frank
19 discussion of the issues.

20 I noticed from the pleadings in this case, and I'm
21 not privy, of course, in terms of everything that's
22 happened, in terms of discovery, but I know that some
23 of the issues in this case involve technical
24 networking issues. There may be some jurisdictional
25 issues floating around out there that I'm not aware

1 of, and I'm sure the parties will let me know of those
2 if those wind up being important to the case.

3 But as you know, this is kind of a last best
4 chance to try to just -- everybody get together,
5 everybody here in the same room, with access to some
6 of the technical experts who have probably lived with
7 these issues, or at least have done some
8 investigation, and kind of share information in that
9 regard.

10 And we've got attorneys here that can do things
11 like set a procedural schedule. Because a procedural
12 schedule is going to be due within two weeks, that was
13 also ordered -- that was also in the order.

14 Also, you know, settlement may not even be out of
15 the question.

16 So, I think that pretty much does it for me. We
17 have got everybody here. I don't know how long this
18 will last. Do you know how long we have this bridge?
19 Is it as long as we need?

20 MR. HAAS: I reserved the bridge until 1:30
21 central time.

22 JUDGE LANE: Okay. So, that's a little
23 over three hours.

24 Yes, sir?

25 MR. GRYZMALA: Your Honor, Bob Gryzmala of

1 AT&T, for those on the phone.

2 Is the bridge working on a number other than what
3 was published in the order? I did not have access to
4 my e-mails last evening when, I understand, Ms. Young
5 asked for a bridge.

6 MS. YOUNG: I sent out e-mails. McLeod
7 actually set up the bridge for the convenience of the
8 parties and the Commission.

9 MR. GRYZMALA: That may explain why we
10 don't have any AT&T people because they would have
11 been inclined -- I told them to call the number that
12 was listed in the order.

13 MS. YOUNG: That was the old -- there
14 wasn't one actually set up for today. That was the
15 old number.

16 JUDGE LANE: No one called in -- nobody
17 contacted me to have the Commission set up a phone
18 bridge in this matter until yesterday, so I think
19 what -- I think McLeod kind of took the initiative and
20 sent out an e-mail about four o'clock yesterday when
21 they set up their own.

22 Would it be possible for whoever set up this call
23 to call and add some additional parties from AT&T?

24 MR. GRYZMALA: What I can do, if I can take
25 an off-line call out in the hall, is call our

1 representative and give them this number.

2 JUDGE LANE: Yes, that would be super.

3 They could call and add in. Why don't we do that?

4 MR. GRYZMALA: After we close the record?

5 JUDGE LANE: We can go off the record now.

6 Does anybody have any issues that they wish to -- any

7 procedural issues, any substantive issues that I need

8 to be here for before we go off the record and we

9 leave you to your discussions?

10 Well, in that case, I want to thank Mindy Vislay

11 for being our court reporter this morning. And thank

12 you for your time in coming here. I know some of you

13 drove a significant distance to be here. And I hope

14 you have a productive pre-hearing conference.

15 We're off the record.

16 (WHEREIN, the recorded portion of the pre-hearing

17 conference was concluded.)

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1 CERTIFICATE OF REPORTER

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4 I, Mindy Vislay, Certified Court Reporter with the
5 firm of Midwest Litigation Services, and Notary Public
6 within and for the State of Missouri, do hereby
7 certify that I was personally present at the
8 proceedings had in the above-entitled cause at the
9 time and place previously described; that I then and
10 there took down in Stenotype the proceedings had; and
11 that the foregoing is a full, true and correct
12 transcript of such Stenotype notes so made at such
13 time and place.

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Mindy Vislay, CCR

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Notary Public (County of Cole)

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My commission expires March 19, 2011

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