

DECISION MEMORANDUM

TO: COMMISSIONER KJELLANDER
COMMISSIONER SMITH
COMMISSIONER HANSEN
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL

FROM: WELDON STUTZMAN

DATE: MAY 5, 2005

SUBJECT: CASE NO. MTI-T-05-1
MOTION TO DISMISS McLEODUSA'S COMPLAINT AGAINST
QWEST CORPORATION

On March 30, 2005, McLeodUSA Telecommunications Services, Inc. filed a Complaint for Enforcement of Interconnection Agreement and Motion for Emergency Relief against Qwest Corporation. After Qwest agreed to abide by a Temporary Restraining Order issued in similar litigation in Colorado, McLeod withdrew its request for emergency relief. On April 20, 2005, Qwest filed both an answer and a Motion to Dismiss. Qwest's Motion to Dismiss was based on withdrawal of its previous demand for a security deposit, which demand was the basis for McLeod's Complaint. On May 4, 2005, McLeod filed a response to Qwest's Motion, which it also titled Motion to Dismiss. McLeod's Motion simply states that it "now wishes to withdraw the Complaint without prejudice," apparently because the two Companies "are close to reaching negotiated resolution of the security deposit issues underlying the Complaint."

Based on the two Motions to Dismiss filed by the parties, Staff recommends the Commission dismiss McLeod's Complaint and close the case.

COMMISSION DECISION

Should the Complaint of McLeodUSA v. Qwest be dismissed?



Weldon Stutzman