

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

DOCKET NO. 03A-538T

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IN THE MATTER OF THE APPLICATION OF MCLEODUSA TELECOMMUNICATIONS SERVICES, INC., FOR RETURN OF FUNDS MISTAKENLY REMITTED TO THE COLORADO LOW INCOME TELEPHONE ASSISTANCE FUND.

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**INTERIM ORDER OF  
ADMINISTRATIVE LAW JUDGE  
MANA L. JENNINGS-FADER  
GRANTING UNOPPOSED MOTION,  
VACATING HEARING, AND  
WAIVING RESPONSE TIME**

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Mailed Date: July 26, 2004

**I. STATEMENT**

1. On December 16, 2003, McLeodUSA Telecommunications Services, Inc. (McLeodUSA), filed its Application for Return of Funds Mistakenly Remitted to the Colorado Low Income Telephone Assistance Fund (Application). The Application commenced this proceeding.

2. The Commission gave public notice of the Application. *See* Notice of Application Filed, dated December 17, 2003. Staff of the Commission (Staff) intervened of right and requested a hearing in this matter.

3. Each party in this proceeding has filed testimony and exhibits. Hearing in this matter is scheduled for July 22 and 23, 2004.

4. On June 23, 2004, Staff filed a Motion for Summary Judgment. McLeodUSA filed a response in opposition. Staff filed a reply. By Decision No. R04-0775-I, the undersigned Administrative Law Judge (ALJ) denied the Motion for Summary Judgment, identified at least

some of the material facts at issue in this proceeding, and noted that the parties had not addressed the identified material facts in their prefiled testimony and exhibits.

5. On July 19, 2004, McLeodUSA and Staff contacted the ALJ by telephone to inform her that, due to previously-scheduled vacations and unavailability, McLeodUSA was unable to provide a witness to testify about the issues identified in Decision No. R04-0775-I. As a result, McLeodUSA requested that the July 22 and 23, 2004, hearing be vacated. Staff did not oppose the oral motion. The ALJ asked McLeodUSA to file a motion and stated that she would grant the motion to vacate the scheduled hearing.

6. On July 22, 2004, McLeodUSA filed an Unopposed Motion to Vacate Hearing and Waive Response Time. Staff does not oppose this motion, and so granting the motion will not prejudice any party. The motion states good cause and will be granted. The hearing scheduled for July 22 and 23, 2004, will be vacated.

7. In view of the fact that Staff does not oppose the motion and there are only two parties in this proceeding, response time to the unopposed motion will be waived.

## **II. ORDER**

### **A. It Is Ordered That:**

1. The Unopposed Motion to Vacate Hearing is granted.
2. The hearing scheduled for July 22 and 23, 2004, is vacated.
3. The Motion to Waive Response Time is granted.
4. Response time to the Unopposed Motion to Vacate Hearing is waived.
5. This Order is effective immediately.

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

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Administrative Law Judge

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