

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

McLeodUSA Telecommunications Services, LLC)
d/b/a PAETEC Business Services)
)
Application for Transfer or Reissuance of) Docket No. 10-_____
Certificates of Service Authority Granted to)
McLeodUSA Telecommunications Services, Inc., in)
Docket Nos. 97-0638 and 98-0136.)
_____)

McLeodUSA Telecommunications Services, LLC d/b/a PAETEC Business Services (“PAETEC Business,” “Applicant,” or “McLeodUSA”), by and through its undersigned counsel, and pursuant to Sections 13-403, 13-404 and 13-405 of the Public Utilities Act (“PUA”), 220 ILCS 5/13-403, 13-404, and 13-405, hereby provides notice of a *pro forma* corporate reorganization,¹ and respectfully requests entry of an order authorizing the transfer, or, in the alternative, reissuing to McLeodUSA the certificates of service authority (“CSAs”) granted by the Commission to McLeodUSA Telecommunications Services, Inc. (“MTSI”), in Docket Nos. 97-0638 and 98-0136. In support hereof, the following is respectfully shown:

I. INTRODUCTION

1. As further detailed below, Applicant will participate in a *pro forma* intracorporate reorganization. A schematic depiction of the corporate reorganization is set forth in Exhibits A and B. The reorganization will not change the ultimate ownership or control of Applicant’s operations, or its corporate directors, officers, or managers, or its service offerings and pricing.

¹ The *pro forma* corporate reorganization described herein involves a provider of competitive telecommunications services. The Commission has previously acknowledged that, under Illinois law, approval is not required for asset sales, transfers, or *pro forma* reorganizations involving competitive carriers. *See, e.g., Lightyear Communications, Inc., Lightyear Telecommunications LLC, and Lightyear Network Solutions, LLC, Joint Application to Grant Authority Necessary to Consummate a Corporate Reorganization for a Certificate of Local and Interexchange Authority*, Docket No. 03-0756, 2004 Ill. PUC LEXIS 88 (2004).

Moreover, as part of the reorganization and to maximize the tax benefits of the intracorporate reorganization, Applicant changed its corporate form by converting under Iowa law to a limited liability company – under controlling Iowa law the converted entity is deemed to be the same entity as the converting entity. There is no legal transfer of assets from one distinct legal entity to another legal entity, including the CSAs under this conversion. After the conversion, Applicant will operate under the name McLeodUSA Telecommunications Services, LLC d/b/a PAETEC Business Services. In all respects, the change in corporate form and *pro forma* reorganization will be transparent to the public.

2. On May 19, 2010, a certificate of authority to transact business in the State of Illinois was issued to McLeodUSA by the Illinois Secretary of State. McLeodUSA's certificate of authority to transact business in the State of Illinois is attached as Attachment 3 to Exhibit C (Application for a Certificate to Become a Telecommunications Carrier).

3. The designated in-state and out-of-state agents of McLeodUSA pursuant to 83 Ill. Admin. Code 215 will be the same as the designated agents currently on record with the Commission for MTSI:

In-State Designated Agent
C T Corporation System
208 S. LaSalle St.
Chicago, IL 60604
Phone: (312) 263-1414

Out-of-State Designated Agent
Judy Messenger, Sr. Manager
Public Policy & Regulatory
One PAETEC Plaza
600 Willowbrook Office Park
Fairport, NY 14450
Phone: (585) 340-2822

II. DESCRIPTION OF THE PARTIES

A. McLeodUSA Telecommunications Services, Inc. d/b/a PAETEC Business Services

4. MTSI is an Iowa corporation with principal offices located at One Martha's Way, Hiawatha, Iowa 52233. MTSI is an indirect wholly-owned subsidiary of PAETEC Holding Corp. ("PAETEC Holding"). MTSI provides integrated communications services, including local services, primarily in 20 Midwest, Southwest, Northwest, and Rocky Mountain states. MTSI is authorized to provide resold and/or facilities-based telecommunications services in 47 states (all 48 contiguous states with the exception of North Carolina) and the District of Columbia pursuant to certification, registration or tariff requirements, or on a deregulated basis. Additionally, MTSI is authorized by the Federal Communications Commission to provide international and domestic interstate telecommunications services as a nondominant carrier and fixed, broadband point-to-multipoint wireless service. In Illinois, MTSI is authorized to provide facilities-based and resold interexchange and local exchange telecommunications services statewide pursuant to certifications granted by the Commission in Docket Nos. 97-0638 and 98-0136.

B. PAETEC Holding Corp.

5. PAETEC Holding is a publicly traded Delaware corporation (NASDAQ GS: PAET) with principal offices located at One PAETEC Plaza, 600 Willow Brook Office Park, Fairport, New York 14450. Through its regulated operating subsidiaries, PAETEC Holding has a presence in 83 of the nation's top 100 MSAs, delivering communications solutions to business customers in 48 states and the District of Columbia. A copy of PAETEC's latest SEC 10-Q filing is attached as Attachment 5 to Exhibit C hereto.

C. Designated Contacts

6. Questions, correspondence or other communications concerning this Application should be directed to:

Tony S. Lee
Venable LLP
575 7th Street, N.W.
Washington, D.C. 20036
Tel: (202) 344-4000
Fax: (202) 344-8300
Email: tslee@Venable.com

with a copy to the following designated representative of Applicant:

William A. Haas
Vice President of Public Policy & Regulatory
PAETEC Holding Corp.
One Martha's Way,
Hiawatha, Iowa 52233
Email: William.Haas@paetec.com

III. DESCRIPTION OF TRANSACTION

A. *Pro Forma* Intracorporate Reorganization²

7. MTSI will be included as part of a *pro forma* intracorporate reorganization of entities that all *currently have* PAETEC Holding as their ultimate parent. There will be no combination of unaffiliated entities. Currently, Applicant is held by PAETEC Holding through the McLeodUSA Inc. and McLeodUSA Holdings, Inc. subsidiaries. A diagram of the pre-reorganization structure of the company showing those entities are attached as Exhibit A. Applicant intends to execute a *pro forma* corporate reorganization whereby PAETEC Business will become an indirect wholly-owned subsidiary of PAETEC Holding under the PAETEC Corp. and PAETEC Communications, Inc. subsidiaries, rather than through its current intervening

² This information is provided for informational purposes only in order to give the Commission a full picture of the transaction. As noted in n.1, *supra*, Commission approval is not required for the *pro forma* reorganization.

parent companies. McLeodUSA Inc. will be collapsed into PAETEC Holding Corp., and McLeodUSA Holdings, Inc.'s stock will be contributed to PAETEC Communications, Inc. There will be no changes whatsoever in the corporate form, name, or manner in which PAETEC Communications, Inc. is held or operated. A diagram of the post-reorganization structure of the company is attached as Exhibit B.

8. The *pro forma* reorganization will not result in a transfer of control of MTSI because its ultimate parent, PAETEC Holding, will remain the same. Furthermore, the day-to-day operations of the company will continue to be managed by the same personnel, and the transaction will not affect Applicant's current rates or services. The proposed *pro forma* reorganization will not impair the financial status of PAETEC Business or otherwise prevent Applicant from attracting capital at fair and reasonable terms, nor will it impair its ability to provide safe, reasonable and adequate service. Rather, the transaction will enhance the overall operational efficiency and competitive position of the company because it expects to gain significant benefits as a result of the *pro forma* reorganization, which will ultimately inure to the benefit of the companies' subscribers. Consequently, the transaction is consistent with the public interest, and will promote competition among telecommunications carriers in the state.

B. Conversion of Applicant from a Corporation to a Limited Liability Company under Iowa Law

9. In connection with the *pro forma* reorganization, MTSI undertook a change in corporate form whereby MTSI was converted from an Iowa business corporation to an Iowa limited liability company. As explained in detail below, under controlling Iowa law, the converted LLC is *for all purposes the same entity as existed before the conversion.*³

³ "An organization that has been converted pursuant to this article is for all purposes the same entity that existed before the conversion." Iowa Code § 489.1009(1).

10. The conversion did not involve the merger of Applicant with any other entity. Rather, the conversion was accomplished simply through the filing of Articles of Conversion with the Iowa Secretary of State.⁴ The purpose of filing such articles is to form a limited liability company through the conversion of another business entity.⁵ The filing of the Articles of Conversion converted MTSI to a limited liability company by operation of law.⁶ Following the conversion, PAETEC Business will to be an indirect, wholly-owned subsidiary of PAETEC Holding Corp, and it will also continue to operate as d/b/a PAETEC Business Services.⁷

11. Under the law governing PAETEC Business's formation and existence, Applicant will continue in existence as the resulting limited liability company, with all of the assets, liabilities, interests, rights, and obligations of the converting company. Specifically, under Iowa law, an entity that converts to a limited liability company is recognized as the same entity.⁸ When the conversion takes effect, the cessation of the existence of the converting business entity in its prior form of organization does not constitute a dissolution or termination of the converting business entity.⁹ The converting business entity ceases its prior form of organization and continues in existence as the resulting limited liability company.¹⁰ The assets, liabilities, interests, rights, and obligations of

⁴ See Exhibit C.

⁵ Iowa Code § 489.1009(1).

⁶ *Id.*

⁷ *Id.*

⁸ "An organization that has been converted pursuant to this article is for all purposes the same entity that existed before the conversion." Iowa Code § 489.1009(1).

⁹ "Except as otherwise agreed, the conversion does not dissolve a converting limited liability company for the purposes of article 7." Iowa Code § 489.1009(2)(f).

¹⁰ When a conversion takes effect all of the following apply:

- a. All property owned by the converting organization remains vested in the converted organization.
- b. All debts, obligations, or other liabilities of the converting organization continue as debts, obligations, or other liabilities of the converted organization.
- c. An action or proceeding pending by or against the converting organization may be continued as if the conversion had not occurred.

MTSI remain vested in the converted entity. Applicant simply continues MTSI's operations in the form of a limited liability company.

IV. REQUEST FOR REISSUANCE OF CERTIFICATES

12. The corporate reorganization and conversion of MTSI to a limited liability company will not result in any changes to the officers, directors, management, or underlying operations of the company. Biographies of key PAETEC personnel are attached as Attachment 3 to Exhibit C. PAETEC Business continues to possess all the managerial, technical, and financial capabilities necessary to provide the services that it has provided to its Illinois customers prior to the conversion.

13. Attached as Exhibit C is a new Application for a Certificate to Become a Telecommunications Carrier for McLeodUSA Telecommunications Services, LLC. Applicant further requests that the waivers granted to MTSI under its previous authority also be granted to PAETEC Business. Specifically, Applicant requests that the Commission allow the waivers of 83 Ill. Adm. Code 710, 83 Ill. Adm. Code Part 250,¹¹ and 83 Ill. Adm. Code Section 735.180 granted to MTSI to remain in effect for PAETEC Business. With regard to Applicant's provision on interexchange services, Applicant requests a waiver of Part 735, governing credit, billing deposits, and termination of service. Applicant will file appropriate revisions to MTSI's tariffs on file with the Commission to reflect the name of the issuing carrier as McLeodUSA Telecommunications Services, LLC.

d. Except as prohibited by law other than this chapter, all of the rights, privileges, immunities, powers, and purposes of the converting organization remain vested in the converted organization.

e. Except as otherwise provided in the plan of conversion, the terms and conditions of the plan of conversion take effect.

f. Except as otherwise agreed, the conversion does not dissolve a converting limited liability company for the purposes of article 7.

Iowa Code § 489.1009(2).

¹¹ Although PAETEC Business's principal offices are in Iowa, its parent company, PAETEC Holding is headquartered in Fairport, NY. Accordingly, Applicant requests that it be allowed to maintain its books and records in New York.

V. CONCLUSION

14. WHEREFORE, for the foregoing reasons, Applicant respectfully requests that the Commission enter an order pursuant to Sections 13-403, 13-404 and 13-405 of the PUA canceling the certificates of service authority granted to MTSI and re-issuing such certificates of service authority to Applicants; and specifying that the waivers of 83 Illinois Administrative Codes 250.10, 710 and 735.180 granted to MTSI remain applicable to McLeodUSA, and that Applicant also be granted a waiver of Part 735.

Respectfully submitted,



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