

**BEFORE THE  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

QWEST CORPORATION,	)	
	)	DOCKET NO. UT-090892
Complainant,	)	
v.	)	PAETEC RESPONSES TO BENCH
	)	REQUESTS
MCLEODUSA TELECOMMUNICATIONS	)	
SERVICES, INC., d/b/a PAETEC BUSINESS	)	
SERVICES.	)	
	)	
Respondent.	)	
_____	)	

McLeodUSA Telecommunications Services, Inc., d/b/a PAETEC Business Services ("PAETEC") provides the following responses to the Commission's Bench Request Nos. 5 and 6.

RESPECTFULLY SUBMITTED this 19th day of July 2010.

**DAVIS WRIGHT TREMAINE LLP**  
Counsel for McLeodUSA Telecommunications Services, Inc., d/b/a PAETEC Business Services.

By:   
\_\_\_\_\_  
Gregory J. Kopta

**WUTC Docket No. UT-090892**  
**PAETEC Response to Bench Requests**  
**July 19, 2010**

**BENCH REQUEST NO. 5:**

On page 19 of the Declaration of August H. Ankum, McLeodUSA states that it does not charge the Wholesale Service Ordering Charge to other competitive local exchange carriers “as part of an implicit or explicit agreement to bill and keep.” Provide a copy of the relevant section of an existing interconnection agreement that reflects such an arrangement.

**Response:**

PAETEC does not have interconnection agreements *per se* with other competitive local exchange carriers (“CLECs”). When necessary, PAETEC will enter into traffic exchange agreements with other CLECs, but PAETEC is not aware of any such agreement that includes express provisions concerning service order charges. Rather, because neither party to these agreements imposes such charges on the other, the agreements simply do not address that issue. Enclosed for the Commission’s reference is a copy of a sample template traffic exchange agreement that McLeodUSA has used in the past.

Prepared by: Julia Redman-Carter  
Phone: 319-790-2250  
Date: July 19, 2010

**Reciprocal Transport and Termination Agreement**

**between**

**CLEC**

**and**

**McLeodUSA Telecommunications Services, Inc.**

**for**

**STATE**

## DRAFT for NEGOTIATION

This Reciprocal Transport and Termination Agreement (the "Agreement") is entered into by and between CLEC ("CLEC" or "CLEC Name") with offices at ADDRESS, CITY, STATE ZIP and McLeodUSA Telecommunications Services, Inc. ("McLeodUSA") with offices at 6400 C Street SW, Cedar Rapids, IA 52406-3177. CLEC and McLeodUSA are each individually a "Party" and are together the "Parties" to this Agreement.

WHEREAS, CLEC is licensed by the STATE COMMISSION as a Local Exchange Carrier ("LEC") provider. McLeodUSA is a LEC holding a certificate of authority to provide telecommunications services in the State of STATE.

WHEREAS, the Parties through agreements and arrangement with a third party, exchange local telecommunications traffic over each other's network facilities, and between each other's subscribers.

WHEREAS, McLeodUSA and CLEC agree to exchange local telecommunications traffic for the benefit of the Parties and their respective end user customers. Local termination services provided by one party to the other under this Agreement are provided pursuant to the receiving Party's status as a LEC.

WHEREAS, the Parties wish to put in place an arrangement for the mutual exchange and reciprocal compensation of local telecommunications traffic in accord with the Act, and which is intended to supersede any previous arrangements between the Parties relating to such traffic.

NOW, THEREFORE, in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, CLEC and McLeodUSA hereby agree as follows:

1. Scope. This Agreement addresses the Parties' reciprocal compensation obligations as described in § 251(b)(5) of the Act. If the Parties mutually agree to replace the existing form of indirect interconnection with a two-way direct connection, the Parties agree to the terms and conditions in Section 9 of this Agreement. By this Agreement, neither Party waives any other rights it may have under the Act or rules of the FCC, under state statute, or pursuant to rules of the Commission. .

2. Interpretation and Construction. The terms and conditions of this Agreement shall be subject to any and all applicable laws, rules, regulations or guidelines that subsequently may be prescribed by any federal or state government authority. To the extent required by any such subsequently prescribed law, rule, regulation or guideline, the Parties agree to negotiate in good faith toward an agreement to modify, in writing, any affected term and condition of this Agreement to bring them into compliance with such law, rule, regulation or guideline.

2.1 The Parties agree and understand that certain provisions in this Agreement are based on the FCC's First Report and Order, In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, rel. Aug. 8, 1996 ("FCC 1st Order") and the Second Report and Order and Memorandum Opinion and Order, In the Matter of the Implementation of the Local

## DRAFT for NEGOTIATION

Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, rel. Aug. 8, 1996 ("FCC 2nd Order"). To the extent that certain of the rules contained in the FCC 1st Order and the FCC 2nd Order, or any other FCC Order adopted to implement the Act are ultimately deemed by the courts to be not effective, this Agreement shall be modified in writing to comport with the final court decisions and subsequent FCC rules adopted to comply with the court's decisions. The parties agree to start negotiations within 60 days of the issuance of a final, non-appealable order by the FCC or court of competent jurisdiction. The parties agree to conclude such negotiations within 90 days of the start of negotiations, and will proceed through Dispute Resolution if unable to reach a written amendment to this agreement.

2.2 The Parties enter into this agreement without prejudice to any position they may take with respect to similar future agreements between the Parties or with respect to positions they may have taken previously, or may take in the future in any legislative, regulatory or other public forum addressing any matters, including matters related to the rates to be charged for transport and termination of local traffic or the types of arrangements prescribed by this Agreement.

### 3. Definitions.

3.1 "Act" means the Communications Act of 1934 (47 U.S.C. 151 et seq.), as amended, including the Telecommunications Act of 1996, and as from time to time interpreted in the duly authorized rules and regulations of the FCC.

3.2 "Commission" means the STATE Public Service Commission.

3.3 "IntraLATA Traffic" is as defined in the Act.

3.4 "InterLATA Traffic" is as defined in the Act.

3.5 "Local Calling Area" (LCA) mirrors the local calling scope defined by the ILEC. Any deviation from the ILEC's Local Calling Area must be mutually agreed to in writing by the Parties.

3.6 "Local Traffic" means traffic that is originated by an end user of one Party in an exchange and terminates to an end user of the other Party in the same exchange or Local Calling Area.

3.7 "MOU" means a minute of use.

**DRAFT for NEGOTIATION**

3.8 "Transit Traffic" means any Traffic that originates from one telecommunications carrier's network, transits another carrier's network substantially unchanged, and terminates to yet another telecommunications carrier.

3.9 "Termination" or "Terminate" means the switching of Local Traffic at the terminating carrier's end-office switch, or functionally equivalent facility, and the delivery of such traffic to the called party.

4. Reciprocal Traffic Exchange. Reciprocal Traffic exchange addresses the exchange of Local Traffic between CLEC's subscribers and McLeodUSA's end-users. Consistent with the Parties current practice, either Party's Traffic may be routed through an intermediary for termination to the other Party. Notwithstanding this Agreement, other services between the Parties shall be covered by a separate written contract.

***[For Bill & Keep Traffic Exchange Agreements:]***

5. Applicability of Reciprocal Compensation. Each Party will transport and terminate the other Parties' Local and ISP Traffic without charge. The Parties may jointly agree to amend the agreement to provide for compensation at some future date.

***[For Reciprocal Compensation Traffic Exchange Agreements:]***

5. Local Transport and Termination Rate. CLEC and McLeodUSA shall reciprocally and symmetrically compensate one another for Local Traffic terminated to their respective subscribers and end-user customers. The MOU rate, if any, for the Termination and transport of such Local Traffic is set forth in Exhibit A attached hereto. Each Party will be responsible for measuring the total monthly minutes of use terminating into its network from the other Party's network. Measured usage is elapsed time. Minutes of use, and/or fractions thereof, will be aggregated at the end of the billing cycle and rounded to the nearest whole minute. Each Party shall be responsible for reporting and remitting all applicable taxes associated therewith.

6. Local and Non-Local Traffic. This Agreement is intended to address the transport and Termination of Local Traffic between the Parties to the extent required by applicable law. Local Traffic is not subject to switched access charges. Non-Local Traffic is subject to the respective Party's interstate or intrastate tariffed switched access charges and terms and conditions, whichever is applicable. Transit Traffic is addressed in Section 7 below.

7. Transit Services. The exchange of traffic between the Parties that is not Local Traffic shall be accomplished using the existing toll telephone network. Neither Party shall perform Transit Services for the other Party except as mutually agreed by the Parties in writing.

8. Voice Over Internet Protocol (VOIP) Traffic. VOIP traffic is not Local or IntraLATA toll or Access.

9. Interconnection. Unless otherwise agreed herein, the Parties will use dedicated two-way trunks to terminate IntraLATA Toll, Local and ISP Traffic. McLeodUSA will control and be responsible for ordering the trunk groups. The Parties may commence negotiations to

## DRAFT for NEGOTIATION

arrange for the direct trunked interconnection of their networks at any time during the Term of this Agreement. All meet point or direct interconnections will be mutually agreed upon prior to ordering and implementation. Parties agree to use standard access service request (ASR) when ordering or requesting network services or changes between each other. Each Party is responsible for providing its own facilities, including the cost of those facilities, up to the actual physical Point of Interface ("POI"). The POI is a mutually agreed upon point of demarcation where the exchange of traffic between CLEC and McLeodUSA takes place. The Parties will negotiate the facilities arrangement between their networks and the physical POI.

10. Billing and Collection If and when the parties agree to a rate for termination of Local Traffic, the Parties shall bill each other on a monthly basis for services provided under this Agreement in accordance with the MOU rate set forth on Exhibit A. The Parties invoices shall conform to the CABS BOS standard to enable the other Party to reasonably verify the accuracy of the usage and charges. The Parties shall pay such invoices within thirty (30) days of receipt of the statement. In the event of a dispute over the amount of the invoice, the Parties shall pay the undisputed portion and shall not be required to pay the disputed portion pending an investigation and resolution of the dispute.

11. General Responsibilities of the Parties.

11.1 Each Party is solely responsible for the services it provides to its Customers and to other Telecommunications Carriers.

11.2 The Parties shall work cooperatively to minimize fraud associated with third-number billed calls, calling card calls, and any other services related to this Agreement.

11.3 Each Party is responsible for administrating the NXX codes assigned to it.

11.4 Each Party is responsible for obtaining Local Exchange Routing Guide listings of Common Carrier Language Location Identifier ("CLLI") codes assigned to it its switches, and complying with LERG Rules and Guidelines.

11.5 Each Party shall use the LERG published by Bellcore or its successor for obtaining routing information and shall provide all required information to Bellcore for maintaining the LERG in a timely manner.

11.6 Each Party shall program and update its own Central Office Switches and End office Switches and network systems to recognize and route traffic to and from the other Parties assigned NXX codes. Except as mutually agreed or as otherwise expressly defined in this Agreement, neither Party shall impose any fees or charges on the other Party for such activities.

11.7 Each Party is responsible for requesting interconnection to the other Party's CCIS network where SS7 signaling on the trunk group(s) is desired. Each Party shall arrange for signaling connectivity through a third party provider which is connected

**DRAFT for NEGOTIATION**

to the other Party's signaling network; provided, however, that the Parties may also employ direct SS7 connection between each other via B/D links. The Parties shall establish interconnection at the STP and other points as necessary and as jointly agreed to by the Parties.

11.8 The Parties will cooperate in the exchange of TCAP messages to facilitate full interoperability of CCIS-based features between their respective networks, including all CLASS features and functions, to the extent each Party offers such features and functions to its own End Users and to the extent the Parties have access to such current CLASS features. All CCIS signaling parameters deployed by both Parties will be provided including CPN. All privacy indicators will be honored.

11.9 Each Party is responsible to provide facilities within its respective network that are necessary for routing and terminating Traffic to and from the other Party's network. However, both parties expressly recognize that the routing of such Local Traffic may be through a third party, and direct interconnection is not required unless mutually consented to by both parties. If a Party makes a change in its network that may materially affect the exchange of Traffic under this Agreement, the Party making the change shall provide at least ninety (90) days advance written notice of the nature of the change and when the change will occur.

11.10 Each Party is to maintain current and accurate contact and escalation information contained in Attachment A of this Agreement. Each Party is responsible for sending any changes and updates in accordance with the Notice Section of this Agreement.

12. Effective Date. This Agreement shall become effective upon execution by the Parties. This Agreement shall be filed with the STATE Public Service Commission ("Commission") as required by applicable state law or upon written request by CLEC. If approval of this agreement is required by the Commission, CLEC and McLeodUSA will work cooperatively to take all steps necessary and proper to expeditiously prosecute a joint applications before the Commission seeking approval of this Agreement. Each Party shall be responsible for 50% of the costs and expenses incurred for filing this Agreement with the Commission. This agreement shall become effective upon final approval by the Commission if approval is required, or upon execution of the Parties.

***[Automatic Renewal & term continues until 60 day notice:]***

13. Term. Subject to the termination provisions contained in this Agreement, the term of this Agreement shall be one (1) year from the effective date and shall continue in effect for consecutive one (1) year terms until either Party gives the other Party at least sixty (60) calendar days written notice of termination, which termination shall be effective at the end of the notice period. Either Party may provide 60-calendar days written notice to terminate the Agreement during the initial or renewal term, without any penalty.

***[Must notice to renew & limited to 2-yr term:]***



**DRAFT for NEGOTIATION**

13. Term. Subject to the termination provisions contained in this Agreement, the term of this Agreement shall be one (1) year from the effective date. Either Party may provide 60 calendar days written notice to renew the Agreement during the initial term. Either Party may terminate the Agreement during the initial or renewal term, without any penalty, upon providing 60 calendar days written notice to the other Party. Termination will be at the end of the notice period.

14. Termination Upon Default. Either Party may terminate this Agreement in whole or in part in the event of a default by the other Party, provided however, that the non-defaulting Party notifies the defaulting Party in writing of the alleged default and that the defaulting Party does not cure the alleged default within thirty (30) calendar days of receipt of written notice thereof.

15. Liability Upon Termination. Termination of this Agreement, or any part hereof, for any cause shall not release either Party from any liability which at the time of termination had already accrued to the other Party or which thereafter accrues in any *respect* for any act or omission occurring prior to the termination relating to an obligation which is expressly stated in this Agreement. The Parties' obligations under this Agreement, which by their nature are intended to continue beyond the termination or expiration of this Agreement, shall survive the termination of this Agreement.

16. Limitation of Liability

16.1 Each Party shall be liable to the other for direct damages. The direct damages shall be limited to the amount owed for traffic exchanged under this Agreement.

16.1.1 If the Parties interconnect or direct trunk in accordance with Section 9 of this Agreement, each Party shall be liable to the other party for direct damages for loss, defect or equipment failure resulting from the causing Party's conduct or the conduct of its agents or contractors in performing the obligations contained in this Agreement. Any McLeodUSA liability for any damages of any kind under this Agreement shall not exceed, in amount, a sum equivalent to the applicable out-of-service credit under the governing Price List. Remedies under this Agreement are exclusive and limited to those expressly described herein.

16.2 Neither Party shall be liable to the other under this Agreement for indirect, incidental, consequential, or special damages, including (without limitation ) damages for lost profits, lost revenues, lost savings suffered by the other Party regardless of the form of action, whether in contract, warranty, strict liability, tort, including (without limitation) negligence of any kind and regardless of whether the Parties know the possibility that such damages could result.

16.3 Nothing contained in this Section shall limit either Party's liability to the other Party for willful or intentional misconduct.

## DRAFT for NEGOTIATION

### 17. Indemnification.

17.1 With respect to third party claims, each of the Parties agrees to release, indemnify, defend and hold harmless the other Party and each of its officers, directors, employees and agents (each an "Indemnitee") from and against and in respect of any loss, debt, liability, damage, obligation, claim, demand, judgment or settlement of any nature or kind, known or unknown, liquidated or unliquidated including, but not limited to, costs and attorneys' fees, whether suffered, made, instituted, or asserted by any other party or person, for invasion of privacy, personal injury to or death of any person or persons, or for loss, damage to, or destruction of property, whether or not owned by others, resulting from the indemnifying Party's performance, breach of applicable law, or status of its employees, agents and subcontractors; or for failure to perform under this Agreement, regardless of the form of action.

17.2 The indemnification provided herein shall be conditioned upon:

17.2.1 The indemnified Party shall promptly notify the indemnifying Party of any action taken against the indemnified Party relating to the indemnification. Failure to so notify the indemnifying Party shall not relieve the indemnifying Party of any liability that the indemnifying Party might have, except to the extent that such failure prejudices the indemnifying Party's ability to defend such claim.

17.2.2 The indemnifying Party shall have sole authority to defend any such action, including the selection of legal counsel, and the indemnified Party may engage separate legal counsel only at its sole cost and expense.

17.2.3 In no event shall the indemnifying Party settle or consent to any judgment pertaining to any such action without the prior written consent of the indemnified Party.

### 18. Dispute Resolution.

#### 18.1 Finality of Disputes.

18.1.1 Except as otherwise specifically provided for in this Agreement, no claim may be brought for any dispute arising from this Agreement more than six (6) months from the date the occurrence which gives rise to the dispute is discovered or reasonably should have been discovered with the exercise of due care and attention.

18.1.2 Notwithstanding anything contained in this Agreement to the contrary, a Party shall be entitled to dispute only those charges for which the Bill Due Date occurred within the six (6) months immediately preceding the date on which the other Party received notice of such Disputed Amounts.

18.2 Commencing Dispute Resolution. Dispute Resolution shall commence upon one Party's receipt of written notice of a controversy or Claim arising out of or relating to this Agreement or its breach. No Party may pursue any Claim unless such written notice has first been given to the other Party.

18.3 Billing Dispute Resolution Process. The following Dispute Resolution procedures will apply with respect to any billing dispute arising out of or relating to the Agreement.

18.3.1 If the written notice given pursuant to Section 18.2 discloses that a dispute relates to billing, then the following procedures shall be used. In order to resolve a billing dispute, the disputing Party shall furnish the other Party written notice of (i) the date of the bill in question, (ii) BAN and Invoice number of the bill in question, (iii) amount billed, (iv) amount in question and (v) the reason that the disputing party disputes the billed amount. Either Party is not prohibited from supplementing the basis for its billing dispute at any time during the process.

18.3.2 The Parties shall attempt to resolve Disputed Amounts appearing on the other Party's current billing statements thirty (30) to forty-five (45) calendar days from the Bill Due Date. If not resolved within thirty (30) calendar days, upon request, the non-disputing Party will notify the disputing Party of the status of the dispute and the expected resolution date.

18.3.3 The Parties shall attempt to resolve Disputed Amounts appearing on statements prior to the current billing statement within thirty (30) to sixty (60) calendar days. If not resolved within thirty (30) calendar days from the date notice of the Disputed Amounts was received, the non-disputing Party will notify the disputing Party of the status of the dispute and the expected resolution date.

18.3.4 If the Disputing Party is not satisfied by the resolution of the billing dispute under this Section 18.3, the Disputing Party may notify the other Party in writing that it wishes to invoke the Informal Resolution of Disputes afforded pursuant to Section 18.4 of this Agreement.

18.4 Informal Resolution of Disputes.

18.4.1 Upon receipt by one Party of notice of a dispute by the other Party pursuant to Section 18.2 or Section 18.3.4 each Party will appoint a knowledgeable, responsible representative that will have authority to finally resolve the dispute to meet and negotiate in good faith to resolve any dispute arising under this Agreement. Designation of representatives must be provided in writing to the other Party within five (5) calendar days of receipt of notice of a dispute. The location, form, frequency, duration, and conclusion of these discussions will be left to the discretion of the representatives. Upon agreement,

the representatives may utilize other alternative Dispute Resolution procedures such as mediation to assist in the negotiations. During the informal dispute resolution process, reasonable requests for information related to the dispute should be provided to the requesting Party within seven (7) calendar days of issuance of the request subject to any appropriate objections. Within five (5) business days of the initiation of the informal Dispute Resolution, the Party initiating the informal dispute shall present a written statement summarizing its position as to the dispute. Within five (5) business days of receipt, the other Party shall respond with a written statement summarizing its position as to the dispute. Discussions and the correspondence among the representatives for purposes of settlement are exempt from discovery and production and will not be admissible in the arbitration described below or in any lawsuit or agency action without the concurrence of both Parties. Documents identified in or provided with such communications that were not prepared for purposes of the negotiations and which may have been provided in response to a reasonable request for information during the course of Dispute Resolution are not so exempted, and, if otherwise admissible, may be admitted in evidence in the arbitration or lawsuit unless both Parties agree otherwise.

18.4.2 The Informal Dispute Resolution process shall conclude not more than fifteen (15) business days after service of a Party's written notice of controversy or claim provided pursuant to Section 18.4.1 unless the Parties mutually agree to extend this deadline for concluding the Informal Dispute Resolution process. Upon conclusion of the informal Dispute Resolution process, either Party may in its sole discretion invoke either the formal Dispute Resolution set forth in Section 18.5 or the informal or formal complaint procedures of the appropriate state or federal regulatory agency.

18.5 Formal Dispute Resolution.

18.5.1 If the Parties are unable to resolve the dispute through the informal procedure described in Section 18.4, then either Party may invoke the formal Dispute Resolution procedures described in Section 18.5, including arbitration or other procedures as appropriate. Formal Dispute Resolution shall conclude not more than twenty (20) business days after either Party invokes the formal Dispute Resolution process unless the Parties mutually agree to extend the deadline for concluding formal Dispute Resolution.

18.5.2 Claims Not Subject to Arbitration. If the following claims are not resolved through informal Dispute Resolution, they will not be subject to arbitration and must be resolved through any remedy available to a Party pursuant to law, equity or agency mechanism.

18.5.2.1 Actions seeking a temporary restraining order or an injunction related to the purposes of this Agreement.

**DRAFT for NEGOTIATION**

18.5.2.2 Actions to compel compliance with the Dispute Resolution process.

18.5.2.3 All claims arising under federal or state statute(s), including antitrust claims.

18.6 Arbitration.

18.6.1 Disputes subject to mandatory arbitration under the provisions of this Agreement will be submitted to a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association or pursuant to such other provider of arbitration services or rules as the Parties may agree. The arbitrator shall be knowledgeable of telecommunications issues. Arbitration will be held in the city where the Commission is located or at a location that is agreeable to both Parties. The arbitration hearing will be requested to commence within forty-five (45) calendar days of the demand for arbitration. The arbitrator will control the scheduling so as to process the matter expeditiously. The Parties may submit written briefs upon a schedule determined by the arbitrator. The Parties will request that the arbitrator rule on the dispute by issuing a written opinion within thirty (30) calendar days after the close of hearings. The Federal Arbitration Act, 9 U.S.C. Secs. 1-16, not state law, shall govern the arbitrability of all disputes. The arbitrator will have no authority to award punitive damages, exemplary damages, Consequential Damages, multiple damages, or any other damages not measured by the prevailing Party's actual damages, and may not, in any event, make any ruling, finding or award that does not conform to the terms and conditions of this Agreement. The times specified in this Section may be extended or shortened upon mutual agreement of the Parties or by the arbitrator upon a showing of good cause. Each Party will bear its own costs of these procedures, including attorneys' fees. The Parties will equally split the fees of the arbitration and the arbitrator. The arbitrator's award shall be final and binding and shall be in writing. Judgement upon the award rendered by an arbitrator may be entered in any court having jurisdiction thereof.

18.6.2 The Parties and the arbitrator will treat the arbitration proceeding, including the hearings and conferences, discovery and other related events, as confidential

19. Taxes. Each Party purchasing services hereunder shall pay or otherwise be responsible for all applicable federal, state, or local sales, use, excise, gross receipts, transaction or similar taxes, fees or surcharges levied against or upon such purchasing Party (or the providing Party when such providing Party is permitted to pass along to the purchasing Party such taxes, fees or surcharges), except for any tax on either Party's corporate existence, status or income. Whenever possible, these amounts shall be billed as a separate item on the invoice. To the extent a sale is claimed to be for resale tax exemption, the purchasing Party shall furnish the providing

## DRAFT for NEGOTIATION

Party a proper resale tax exemption certificate as authorized or required by statute or regulation by the jurisdiction providing said resale tax exemption. Failure to timely provide said resale tax exemption certificate will result in no exemption being available to the purchasing Party.

20. Assignments, Successors and Assignees. A Party may not assign or transfer this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, a Party may assign this Agreement, or any portion thereof, without consent to any entity or successor entity that controls, is controlled by or is under common control with the assigning Party. Any such assignment shall not in any way affect or limit the rights and obligations of the Parties under this Agreement. The Agreement shall be binding upon and inure to the benefit of the Parties hereto and their lawful successors and assigns.

21. Confidentiality. The Parties to this Agreement recognize they or their authorized representatives may come into possession of confidential and/or proprietary data about each other's business or networks as a result of this Agreement. Each Party agrees to treat all such data and information as strictly confidential and to use such data and information only for the purpose of performance under this Agreement. Each Party agrees not to disclose data or information about the other Party's business without first securing the written consent of the Party, unless such disclosure is required by lawful subpoena or court order.

22. Business Records. Each Party is responsible for the accuracy of its data as submitted to the other Party. Upon reasonable notice, each Party or its authorized representative shall have the right to conduct an on-premise review of the relevant data possessed by the other Party to assure compliance with the provisions of this Agreement. The review will consist of any examination and verification of data involving records, systems, procedures and other information related to the services performed by either Party as it relates to charges or payments made in connection with this Agreement. Each Party's right to access information for a verification review purpose is limited to data not in excess of twelve (12) months in age. A Party's right to request a review is limited to once every twelve (12) months. The Party requesting a verification review shall fully bear its own costs associated with conducting the review. The Party being reviewed will provide reasonable access to necessary and applicable information at no charge to the reviewing Party during normal business hours.

23. Force Majeure. Neither Party shall be liable for any delay or failure in performance of any part of this Agreement from any cause beyond its reasonable control, including, without limitation, acts of nature, acts of civil or military authority, government regulations, embargoes, epidemics, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, power blackouts, other major environmental disturbances or unusually severe weather conditions (collectively, a "Force Majeure Event").

24. No Third Party Beneficiaries. This Agreement does not provide any person not a party, assignee or successor to this Agreement and shall not be construed to provide any such third parties with any remedy, claim, liability, reimbursement, cause of action, or other privilege.

25. Notices. Notices given by one Party to the other Party under this Agreement shall be in writing and shall be (i) delivered personally; (ii) delivered by express delivery service; (iii)

**DRAFT for NEGOTIATION**

mailed, certified mail or first class U.S. mail postage prepaid, return receipt requested; or (iv) delivered by facsimile; provided that a confirmation copy is sent by the method described in (i), (ii), (iii) or (iv) of this Section 19, to the following addresses of the Parties:

To "CLEC":

NAME  
TITLE  
COMPANY CLEC  
ADDRESS  
CITY, STATE  
Phone:  
Fax:

To "McLeodUSA":

General Counsel  
McLeodUSA Telecommunications Services, Inc.  
6400 C Street SW, P.O. Box 3177  
Cedar Rapids, IA 52406 - 3177  
Phone: (319) 790-7744  
Fax: (319) 790-7901

And to:

Tami Spocogee  
Director – Network Cost & Billing  
McLeodUSA Telecommunications Services, Inc.  
15 East 5<sup>th</sup> Street, Suite 1900  
Tulsa, OK 74103  
Phone: (918) 419-3350  
Fax: (918) 419-3638

Any such notice given under this Agreement shall be effective upon the receipt of the Party. Any Party may specify a different address by notifying the other Party in writing of such different address in the manner provided in this Section 25.

26. Governing Law. For all claims under this Agreement that are based upon issues within the jurisdiction of the FCC or governed by federal law, the Parties agree that remedies for such claims shall be governed by the FCC and the Act. For all claims under this Agreement that are based upon issues within the jurisdiction of the Commission or governed by state law, the Parties agree that the jurisdiction for all such claims shall be with such Commission, and the remedy for such claims shall be as provided for by such Commission. In all other respects, this

**DRAFT for NEGOTIATION**

Agreement shall be governed by the domestic laws of the state of STATE without reference to conflict of law provisions.

27. Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes all prior oral or written agreements, representations, statements, negotiations, understandings, proposals and undertakings with respect to the subject matter hereof.

28. Severability. If any part of this Agreement is held invalid for any reason, that invalidity will affect only the portion of the Agreement which is invalid. In all other respects this Agreement stands as if the invalid provision had not been part of it, and the remainder of the Agreement remains in full force and effect.

29. Amendments. This Agreement may not be modified or amended other than by a written instrument executed by both Parties. Any amendment, modification or supplement to this Agreement shall be filed with the Commission and approved by the Commission as may be required by applicable law.

30. Counterparts. The undersigned signatories represent they have the authority to execute this Agreement on behalf of their respective companies. This Agreement can be executed in separate parts which together will constitute a single, integrated Agreement.



**DRAFT for NEGOTIATION**

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of this \_\_\_\_ day of \_\_\_\_\_, 2004.

"CLEC"

"McLeodUSA"

CLEC

McLeodUSA Telecommunications Services, Inc.

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

OCN \_\_\_\_\_

ACNA \_\_\_\_\_

Contact and Escalation List

CLEC

McLeodUSA

To Place Orders, trunk group service requests or request information about trunks or facilities:

Name: Telephone: Fax: Address: E-mail: For Escalation: Name: Telephone: E-mail: Name: Roxanne Hoover Telephone: 319-790-7100 Fax: 319-790-7127 Address: PO Box 3177, Cedar Rapids, IA 52410-3177 E-mail: Roxanne.hoover@mcleodusa.com For Escalation: Manager Name: Darren Green Telephone: 918-419-3327 E-mail: Darren.green@mcleodusa.com

To test and turn up facilities or trunks or to coordinate call through testing:

Name: Telephone: Fax: Address: E-mail: For Escalation: Name: Telephone: E-mail: Name: Install Telephone: 800-850-5643 Fax: 918-419-3586 Address: 15 E 5th St., Suite 1700, Tulsa, OK 74103 For Escalation: Manager Name Shelley Stufflebeam Telephone: 918-419-3618 E-mail: shelley.stufflebeam@mcleodusa.com

To report trouble with facilities or trunks:

NOC Contact Number: Facsimile Number: E-mail: For Escalation: Name: Telephone: E-mail: Name: Network Management Center (24x7) Telephone: 800-332-2385 Fax: 319-790-6699 Address: PO Box 3177, Cedar Rapids, IA 52410-3177 For Escalation: Manager Name: Bill Graesser Telephone: 319-790-6087 E-mail: william.graesser@mcleodusa.com

### Transport and Termination Rate

The Transport and Termination for Local Traffic under the Agreement shall be based on the following schedule.

local call	\$0.0005/min
------------	--------------

**WUTC Docket No. UT-090892**  
**PAETEC Response to Bench Requests**  
**July 19, 2010**

**BENCH REQUEST NO. 6:**

1. Do you accept and process customer transfer requests, including porting requests, from other carriers without requiring use of an LSR?
2. If yes, please explain in detail the circumstances when an LSR is required and when an LSR is not required.

**Response:**

1. No. PAETEC requires other carriers to submit customer transfer requests and order all other local exchange services via an LSR.
2. Not applicable.

Prepared by: Julia Redman-Carter  
Phone: 319-790-2250  
Date: July 19, 2010