

**BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON INDEPENDENT  
TELECOMMUNICATIONS ASSOCIATION,  
WASHINGTON EXCHANGE CARRIER  
ASSOCIATION, THE TOLEDO  
TELEPHONE CO., INC., TENINO  
TELEPHONE COMPANY, KALAMA  
TELEPHONE COMPANY AND HOOD  
CANAL TELEPHONE COMPANY, d/b/a  
HOOD CANAL COMMUNICATIONS,

Complainants,

v.

MCLEODUSA TELECOMMUNICATIONS  
SERVICES, L.L.C. AND PAETEC  
COMMUNICATIONS, INC.,

Respondents.

DOCKET UT-111816

**DIRECT TESTIMONY OF**

**DALE MERTEN**

**ON BEHALF OF**

**COMPLAINANTS**

**April 6, 2012**

1 **Q. PLEASE STATE YOUR NAME AND PROVIDE YOUR BUSINESS**  
2 **ADDRESS FOR THE RECORD.**

3 A. My name is Dale Merten. My address is 183 Plomondon Road, Toledo,  
4 Washington 98591.

5 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

6 A. I am employed by The Toledo Telephone Company, Inc. as their Chief  
7 Operations Officer.

8 **Q. PLEASE DESCRIBE YOUR EXPERIENCE IN THE**  
9 **TELECOMMUNICATIONS INDUSTRY.**

10 A. I began my career in this industry in 1977 working for a small rural company as a  
11 combination technician. During this 35-year span, I have installed and repaired  
12 every type of equipment and software imaginable, including central office  
13 switches ranging from old Step technology to today's softswitches. I have built  
14 state-wide networks and managed hundreds of employees. I have testified before  
15 the FCC on this very issue and regularly meet with members of Congress. I have  
16 worked for CLECs, RLECs and ILECs and understand the differences in each  
17 business model. Over the years, I have become as familiar with the  
18 administrative functions of this industry as I am with the technical. I have  
19 extensive analytical skills and a comprehensive knowledge of this industry from  
20 the backhoe to the Board Room.

1 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

2 A. My testimony will address the access avoidance that occurred at Toledo by traffic  
3 delivered to Toledo through McLeodUSA Telecommunications Services, L.L.C.  
4 I will refer to McLeod interchangeably as McLeod or PaeTec. As best I can tell,  
5 McLeod is an entity that exists on paper as a wholly-owned subsidiary of PaeTec  
6 Communications, Inc. based on the organizational chart that PaeTec submitted in  
7 response to Data Request 1-2. That organizational chart is attached to my  
8 Testimony as Exhibit No. \_\_\_\_ (DM-2).

9 **Q. WHAT LED YOU TO LOOK AT ACCESS AVOIDANCE ISSUES?**

10 A. In August of 2010, I noticed our CABS billing to Sprint for terminating minute of  
11 use went from a fairly consistent monthly average of about \$5,700.00 to zero. At  
12 the time, we did not have the analysis tools to determine if indeed all Sprint  
13 customers nationwide have quit calling Toledo, or was the traffic still there under  
14 another carrier.

15  
16 In a coincidence, in September of 2010, we began to receive complaints that our  
17 customers could not be called. The calling party would hear dozens of rings, or  
18 dead air or one ring and a disconnect while the called party would hear no  
19 ringing, or upon answering only hear dead air.

20  
21 Initially, we anticipated something in our network was to blame. We made  
22 hundreds of test calls, triple checked configuration files, swapped out working  
23 equipment with spares and even rolled back to a version of software dating back

1 before the complaints began. Nothing made any difference, but the problem  
2 continued to get worse.

3 **Q. HAD YOU TRIED TO INVESTIGATE THESE MATTERS EARLIER?**

4 A. We activated call logging in March of 2010 on our softswitch that captures every  
5 originating, terminating and intra-switch call in a .csv file. The files are very  
6 large and difficult to extrapolate summarized data. At the time they were of little  
7 use.

8  
9 Late 2010, I decided to purchase additional hardware and software that would  
10 provide near real time analysis of both the SS7 and billing records at an expense  
11 of over \$50,000.00.

12 **Q. WHAT DID YOU FIND FROM THE ADDITIONAL HARDWARE AND**  
13 **SOFTWARE?**

14 A. The .csv files and new tools provided an insight I did not expect. I learned that  
15 long distance calls terminating on our switch were being delivered as a local EAS  
16 number, 360-232-0041, in tremendous volume. In fact the volume has peaked at  
17 over 80% of all traffic terminating on our switch coming from this single number.

18  
19 I researched the LERG and learned the number belongs to PaeTec. An interesting  
20 side note is that if you call the number, it answers as disconnected. In other  
21 words, it is not a working number.

1 **Q. WHAT DID YOU DO NEXT?**

2 A. Further testing revealed several long distance providers use PaeTec to terminate  
3 calls as a way to avoid access. For example, the FCC uses Sprint as their long  
4 distance provider. This same local number, 360-232-0041, appeared as the  
5 Charge Number when Margret Daily with the FCC called my desk to invite me to  
6 participate on a Call Completion Panel. In addition, I have a friend who lives in  
7 Kansas City, Missouri that has a Sprint cell phone. Every time he calls me, the  
8 same local Charge Number is displayed.

9  
10 What I mean by Charge Number is that if a carrier wants the call to be charged to  
11 a different number than the calling party number, there is a field where that  
12 information can be entered. When the call arrives at our switch, the Charge  
13 Number, if that field has been populated, is what is displayed and we believe that  
14 number is the jurisdiction of the call. When we began getting into the  
15 investigation in detail, we saw that the calling party number, which we captured  
16 with our additional equipment, showed that the calls were jurisdictionally  
17 originated outside of the EAS area.

18  
19 As another example, our legal counsel uses Qwest for long distance. His calls  
20 also appear as the same local number to our switch even though his office is in  
21 Olympia.

22

1 We have done hundreds of test calls from telephone numbers across the state and  
2 the country. Calls from Jamaica even use this number. However, in no instance  
3 have I seen an actual local call terminate under this number. This appears to be  
4 used exclusively for avoiding access charges.

5

6 I should also point out that whenever 360-232-0041 appears on our switch, the  
7 CIC is always 0000.

8 **Q. WHAT DOES THAT MEAN?**

9 A. The CIC is normally populated for interLATA long distance calls that are subject  
10 to access charges. The CIC stands for carrier identification code and allows the  
11 call to be associated with a particular interexchange carrier. In this case that did  
12 not happen.

13 **Q. PLEASE DESCRIBE WHAT HAPPENS WITH YOUR SWITCH AND**  
14 **WHAT FUNCTIONS IT PERFORMS WHEN A LONG DISTANCE CALL**  
15 **DELIVERED BY AN INTEREXCHANGE CARRIER REACHES YOUR**  
16 **FACILITIES.**

17 A. Under normal call processing our switch will receive an SS7 message requesting  
18 the status of the called number. Our switch will respond and if the status is  
19 “Available”, the originating switch will send a request to ring. The called party’s  
20 phone will ring and upon answer our switch will send a request to open two way  
21 communication. The originating switch will acknowledge this request and the  
22 call is now established. The calling number, caller ID, caller name, and the

1 charge number are elements of the SS7 message. For example, the caller id will  
2 appear to the called party as the phone begins to ring.

3 **Q. IS THIS ANY DIFFERENT FROM THE FUNCTIONS YOUR SWITCH**  
4 **PERFORMED IN ACCEPTING AND ROUTING THE TRAFFIC THAT**  
5 **WAS DELIVERED THROUGH MCLEOD?**

6 A. No. It is the same.

7 **Q. ARE THE COSTS TO TOLEDO THE SAME?**

8 A. Yes.

9 **Q. HAVE YOU REVIEWED THE MATERIAL THAT PAETEC AND**  
10 **MCLEOD PROVIDED IN RESPONSE TO DATA REQUESTS 1-5 AND 1-**  
11 **6?**

12 A. Yes. That information shows the number of calls terminated to Toledo between  
13 the period of November, 2009 through December of 2011. I have attached a  
14 summary of that traffic as Exhibit No. \_\_\_\_ (DM-3C).

15 **Q. HAVE YOU COMPARED THE DATA WITH YOUR SWITCH**  
16 **INFORMATION?**

17 A. Yes.

18 **Q. WHAT DID YOU FIND?**

19 A. The total volume of minutes is very close and appears to be relatively accurate.  
20 However, the calls that they have identified as TDM are far fewer than what were  
21 actually placed. I know this because we placed hundreds of TDM calls ourselves  
22 as test calls and they do not show up in the information provided in response to

1 the data request. As a result, I do not agree that the calls they say are VoIP-  
2 originated are, in fact, VoIP-originated.

3 **Q. HAVE YOU ANALYZED THE FINANCIAL IMPACT TO TOLEDO?**

4 A. I have reviewed the information that is included in Mr. Phillips' Testimony. I  
5 have looked at the calculations and find them to be accurate.

6 **Q. DOES THAT CONCLUDE YOUR DIRECT TESTIMONY?**

7 A. Yes.