

**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

ROBERT A. SMITH

ON BEHALF OF

COMPLAINANTS

April 6, 2012

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

3 A. My name is Robert A. Smith. My address is 290 North 1st Street, Kalama,
4 Washington 98625.

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

6 A. I am employed by Scatter Creek Limited. I serve as Director - Regulatory and
7 Governmental Affairs for the two operating companies, Kalama Telephone
8 Company and Tenino Telephone Company.

9 **Q. PLEASE DESCRIBE YOUR BACKGROUND IN THE**
10 **TELECOMMUNICATIONS INDUSTRY.**

11 A. I was heavily involved in the creation of the original access charge plan for the
12 State of Washington. I have been involved in the modifications to the access
13 charge plan over the years.

14
15 I am also currently President of the Washington Independent Telecommunications
16 Association. This is my third term as President of WITA.

17
18 I have been employed in my current position by the Tenino and Kalama
19 companies for the past twelve years. I began my career with Pacific Telecom
20 Inc., (PTI), or its predecessor companies in 1966. I held the positions of Field
21 Engineer, Accounting Manager, Assistant Treasurer and Settlements Manager,
22 Cost Studies Manager, Manager of Access Charges and Toll Settlements, and
23 Director – External Affairs. PTI was subsequently acquired by CenturyTel at

1 which time I became Director of Revenue Strategies in the CenturyTel Service
2 Group and held that position until I left the Company in December of 1999.

3
4 I was the lead instructor for the United States Telephone Association's Cost
5 Separations School for three years and I was a member of the National Exchange
6 Carriers Association (NECA) Access Procedures Committee which drafted the
7 original Part 69 cost allocation rules and developed the NECA Part 67/69 cost
8 allocation model. I participated as a member of the NECA USF Industry Task
9 Force and the USTA Regulatory Methods Sub-Committee. I was the Chairman of
10 the Oregon Exchange Carrier Association (OECA) from 1986 through 1999. I am
11 currently the President of the Washington Exchange Carrier Association (WECA)
12 and have held this position since 1990.

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

14 A. I will be providing a public policy perspective on the activities of McLeodUSA
15 Telecommunications Services, L.L.C.

16 **Q. WHAT IS WITA'S POSITION ON INTEREXCHANGE TRAFFIC THAT**
17 **ORIGINATES OUTSIDE OF AN EAS AREA AND TERMINATES**
18 **WITHIN THE EAS AREA?**

19 A. To the extent such traffic is not subject to the FCC's intraMTA rule for wireless
20 traffic, the position is that all such traffic should be subject to terminating access
21 charges. If the call originates at a point within the State of Washington and
22 terminates at another point within the State of Washington and those two points
23 are not within an EAS area, intrastate terminating switched access charges should

1 apply on the terminating end. If a call originates in a state other than Washington
2 and terminates to a point in Washington, that call should be subject to interstate
3 terminating switched access charges.

4 **Q. DOES IT MAKE A DIFFERENCE IF VOICE OVER INTERNET**
5 **PROTOCOL IS INVOLVED?**

6 A. No. That is just one means of transmitting traffic. The Federal Communications
7 Commission agreed with that point of view when it issued its IP-In-The-Middle
8 decision. I am referring to In the Matter of Petition for Declaratory Ruling That
9 AT&T's Phone-to-Phone IP Telephony Services are Exempt from Access
10 Charges, WC Docket No. 02-361, Order, FCC 04-97 (Released April 21, 2004).
11 This Commission agreed with that point of view in the LocalDial proceeding.
12 Washington Independent Telephone Association v. LocalDial, Docket No. UT-
13 031472, Final Order Granting Motions for Summary Determination (Order No.
14 09) (June 11, 2004).

15
16 Further, the FCC has now clearly recognized that principle in its Order FCC No.
17 11-161. Although the FCC applies interstate access rate levels to intrastate
18 traffic, for its own purposes, it is clear that access charges apply to VoIP-
19 originated traffic that is terminated as voice traffic.

20 **Q. IF MCLEOD IS PERFORMING A CALL TERMINATION SERVICE FOR**
21 **A DIFFERENT ORIGINATING INTEREXCHANGE CARRIER, SHOULD**
22 **MCLEOD BE THE ENTITY RESPONSIBLE FOR TERMINATING**
23 **ACCESS CHARGES?**

1 A. Yes. McLeod is the one that is delivering the traffic to the terminating local
2 exchange carrier. McLeod is the one that is entering information in the Charge
3 Number field that makes it look to the terminating switch and the access tandem
4 that the call is a local (or EAS) call, rather than an interexchange call subject to
5 terminating switched access charges.

6 **Q. ARE WITA OR WECA AND THE NAMED MEMBER COMPANIES**
7 **SEEKING TO HAVE THE COMMISSION ISSUE AN ORDER FOR**
8 **MCLEOD AND PAETEC TO PAY A SPECIFIC SUM OF MONEY TO**
9 **THE COMPLAINANTS AND OTHERS?**

10 A. If the Commission has that authority, then yes. However, it is my understanding
11 that the Commission does not have that authority.

12

13 What the Commission can do is to issue an order finding that the traffic involved
14 is subject to access charge service and rates. This would allow the companies to
15 then move forward to collect the amounts owed to them.

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

17 A. Yes.