

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("Agreement") is made and entered into as of this 4th day of May, 2012 (the "Effective Date") by and between McLeodUSA Telecommunications Services, L.L.C. and Paetec Communications, Inc. ("McLeod/Paetec"), on the one hand, and the Washington Independent Telephone Association ("WITA") the Washington Exchange Carrier Association ("WECA") (and its individual member companies participating in the NTS pool), The Toledo Telephone Co., Inc., Tenino Telephone Company, Kalama Telephone Company, and Hood Canal Telephone Co., Inc., d/b/a Hood Canal Communications ("Washington Rural Local Exchange Carriers" or "Washington RLECs"). McLeod/Paetec and Washington RLECs may hereinafter be referred to, each individually, as a "Party," and, collectively, as the "Parties".

WHEREAS, the Washington RLECs filed and have pending at the Washington Utilities and Transportation Commission (the "Commission") in Docket No. UT-111816 a Complaint and Request for Declaratory Order (the "Docket") in which it alleges that McLeod/Paetec have engaged in call signaling and call termination practices asserted to be unlawful and/or unreasonable in various respects, and further alleges that McLeod/Paetec have improperly failed to pay access charges on certain traffic.

WHEREAS, McLeod/Paetec deny the material allegations of the Docket and have filed an Answer with respect thereto.

WHEREAS, the Parties disagree whether certain practices of McLeod/Paetec are reasonable and lawful.

WHEREAS, the matters described above and resolved by this Agreement shall include all asserted claims and disputes between the Parties as to matters asserted in the Docket, whether known or unknown, through and including the Effective Date of this Agreement and shall be referred to hereinafter as "the Claims."

WHEREAS, the Parties wish to resolve and settle the Claims to avoid the necessity, expense, inconvenience, and uncertainty of litigation with the Claims.

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration exchanged between McLeod/Paetec and the Washington RLECs, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Settlement of the Claims, Dismissal of Complaint, Release and Other Matters

(a) Settlement Payments and Dismissal of Complaint. The Parties agree to the following terms with respect to the payment of amounts provided for in this Agreement:

- (i) McLeod/Paetec Payment. Subject to the terms and conditions set forth herein, McLeod/Paetec shall pay the total sum of [REDACTED]

[REDACTED] (hereinafter, "McLeod/Pactec Settlement Amount") in order to settle the Claims hereunder. The McLeod/Pactec Settlement Amount shall be paid to the WECA (on behalf of the Washington RLECs) as described herein. Within three (3) business days following the final execution of this Agreement, McLeod/Pactec will remit to the WECA the total amount of [REDACTED] in immediately available funds, preferably upon electronic wire transfer, the account information pertaining to which shall be promptly provided to McLeod/Pactec by or on behalf of WECA. Upon payment of the McLeod/Pactec Settlement Amount, all invoices issued by the Washington RLECs to McLeod/Pactec to the extent they involve the Claims through the Effective Date shall be deemed resolved, and each Party will appropriately reflect resolution of the Claims on its billing records.

(ii) Dismissal of Complaint. Within five (5) business days of the later of the final execution of this Agreement and the receipt by WECA of full payment of the "McLeod/Pactec Settlement Amount. The Washington RLECs shall move the Commission to dismiss the Docket with prejudice, the form of the motion to dismiss to be mutually agreed upon by the Parties within three (3) business days following the final execution of the Agreement.

(iii)

[REDACTED]

(b) Accord, Satisfaction and Release. This Agreement shall be effective as a full and final accord and satisfaction and release of all the Claims and all disputes related to the Claims between the Parties as of the Effective Date of this Agreement. The Parties acknowledge and agree that although they may hereafter discover facts in addition to or different from those which they know or believe to be true as of the date of the Agreement, which are related to the Claims, this Agreement shall fully, finally and forever, with respect to each other, settle and release all Claims and that the releases shall be and remain in effect notwithstanding the discovery or existence of any such additional or different facts.

Each Party, on behalf of itself and its past, present, and future employees, agents, officers, directors, attorneys, representatives, predecessors, successors, assigns, parent companies, holding companies, subsidiaries, owners, and affiliates, absolutely, unconditionally, completely, and without reservation releases, acquits and hereby irrevocably remises, releases and forever discharges the other Party and its respective past, present, and future employees, agents, officers, directors, attorneys, representatives, predecessors, successors, assigns, parent companies, holding companies, subsidiaries, owners, and affiliates, of and from any and all

manner of claims, demands, rights, liabilities, damages, potential actions, causes of action, suits, judgments, decrees, and controversies of any kind and nature whatsoever, at law, in equity, or otherwise, whether known or unknown, which have arisen or might arise in the future in connection with or relating to the Claims. For purposes of this accord, satisfaction and release in paragraph 1(b) and the waiver in paragraph 1(c), the term "affiliates" means any entity over which a Party exercises effective control or owns, directly or indirectly, at least fifty percent (50%) of the equity interest in such entity.

(c) **Waiver of Additional Payment or Credit.** Each Party, on behalf of itself and its past, present, and future employees, agents, officers, directors, attorneys, representatives, predecessors, successors, assigns, parent companies, holding companies, subsidiaries, owners, and affiliates, absolutely, unconditionally, completely, and without reservation waives its and their respective rights to any additional payment or credit with respect to the Claims.

2. **General Provisions**

(a) **Representations and Warranties.**

(i) Each Party represents and warrants that, as to the Claims, it is the true and lawful owner of all right, title, and interest in and to the respective Claims being released hereby and that it has not transferred, assigned, or otherwise encumbered any of the matters released hereby or any part thereof.

(ii) Each Party hereby represents and warrants to the other Party that: (i) it has full power and authority to execute, deliver and perform this Agreement; (ii) it has executed this Agreement as a free and voluntary act of its own free will and without any threat, force, fraud, duress, or coercion of any kind; and (iii) this Agreement has been executed and delivered on behalf of such Party by its duly authorized agent and constitutes the valid and binding obligation of such Party enforceable in accordance with its terms.

(iii) Each Party hereby represents and warrants to each other Party that the execution, delivery and performance of this Agreement and the consummation by it of the transactions contemplated hereby will not result in a violation of its certificate of incorporation, partnership agreement or by-laws, or any law, rule, regulation, order, judgment or decree applicable to it or by which any of its properties or assets is bound or affected; or require the consent, authorization or order of, or filing or registration with, any governmental authority or any other person for the execution, delivery and performance by it of this Agreement.

(iv) Each Party warrants that it is represented by competent counsel with respect to this Agreement and all matters covered by it; that it has read and understood all aspects of this Agreement and all its effects; that it has been fully advised by said counsel with respect to its rights and obligations and with respect to the execution of this Agreement; and that it authorizes and directs its attorneys

to execute such papers and to take such other action as is necessary and appropriate to effectuate the terms of this Agreement.

(v) The individuals signing on behalf of each Party represent to the other Party that they are fully authorized to sign and enter into this Agreement on behalf of the entity or entities for which they are signing, that they are legally competent to execute this Agreement, and that they do so of their own free will and accord and without reliance on any representation of any kind or character not expressly set forth herein. Each such individual further acknowledges that he or she understands that the other Party is signing this Agreement and agreeing hereto based upon the truth of the foregoing representations, and that otherwise the other Party would not sign or enter into this Agreement or take any action based upon this Agreement.

(b) Use of Documentation. This Agreement shall constitute a negotiated resolution of the Claims, with the bargained-for concessions supporting and being consideration for the conditions contained herein. Except for purposes of enforcing and administering this Agreement or distributing the McLeod/Pastec Settlement Amount among the Washington RLECs, the Parties shall not use documents produced during the course of negotiations including this Agreement, position papers, memoranda, e-mails or other communications otherwise made by and between the Parties, their subject matter experts, business representatives or other consultants, and further agree that such data shall remain confidential and not available for the purposes of litigation or otherwise presented publicly or under seal or other proprietary protection in any forum, unless required to do so by applicable law or regulation or by order of a governmental body of competent jurisdiction; provided, however, that a Party is free to use any documents which that Party itself produced during the course of such negotiations provided that such documents do not reflect confidential settlement discussions.

(c) Confidentiality. No Party shall disclose the terms of the Agreement or any of the discussions or communications leading up to and giving rise to this Agreement to any person or entity that is not a Party to this Agreement without the written permission of the other Party (in the case of the Washington RLECs the other Party is McLeod/Pastec and in the case of McLeod/Pastec, the other Party is both WITA and WECA). All Parties shall treat the terms of this Agreement as confidential and may not use them in any proceeding, even if the existence of the Agreement becomes public knowledge. Notwithstanding the foregoing sentence, neither this paragraph 2(c) nor paragraph 2(b) preceding shall preclude a Party from disclosing this Agreement's terms and provisions: (i) to any affiliate who has a need to know such information in order to carry out the obligations hereunder, provided that such affiliate agrees in advance to abide by the terms of this paragraph 2(c); (ii) to its employees, representatives, auditors and attorneys who have a need to know such information, provided that each such recipient agrees in advance to abide by the terms of this paragraph 2(c); (iii) for the limited purpose of enforcing the terms of the Agreement or resolving a dispute arising under the terms of this Agreement; or (iv) as may be required by applicable law or regulation or by order of a governmental body of competent jurisdiction; provided, however, that, prior to making any such disclosure under this item (iv), the Party required to disclose shall promptly notify the other Party (as defined above) in writing in order to afford the other Party an opportunity to seek a protective order or other

appropriate remedy to prevent public disclosure; provided, further, that Party required to disclose shall cooperate with the other Party in seeking to obtain such an order or other remedy; and provided, further, that if the Party seeking protection is not successful in obtaining such protective order or other remedy preventing or limiting the required disclosure, the Party required to disclose shall disclose this Agreement or its terms and provisions only to the minimum extent required by such law, regulation or order. If a Party other than McLeod/Paetec, its predecessors, successors, assigns, parent companies, holding companies, subsidiaries and affiliates (as defined earlier), and other than any of its or their respective past, present, or future employees, agents, officers, directors, attorneys, representatives and owners, materially breaches the confidentiality requirements as described in this subsection (c), the settlement shall become voidable, and the dollar amounts exchanged in connection with this settlement shall be subject to refund to McLeod/Paetec. Notwithstanding any other provision in this subsection, the Agreement and a narrative summary of the Agreement can be jointly submitted by the Parties to the Commission, to the extent required by the Commission's settlement rule, WAC 480-07-740. Any such submission shall treat the Agreement and all of its provisions as "Confidential Information" pursuant to the Protective Order previously issued in this Docket and applicable Commission Rules.

(d) No Admission. Nothing in this Agreement shall constitute, or be considered as, an admission of liability or wrongdoing by McLeod/Paetec or by the Washington RLECs, and neither this Agreement nor any part of it may be used in any way against McLeod/Paetec or the Washington RLECs in any legal, equitable, or administrative action or arbitration except in an action to enforce this Agreement or seek return of the McLeod/PaeTec Settlement Amount pursuant to paragraph 3(c) preceding.

(e) Assignment. No Party may assign this Agreement or any right or interest under this Agreement, nor delegate any obligation under this Agreement, without the prior written consent of the other Parties, which consent shall not be unreasonably withheld, conditioned or delayed. Any attempted assignment or delegation in violation of this paragraph 2(e) shall be void and ineffective.

(f) No Warranties. Except as explicitly set forth in this Agreement, there are no representations, warranties, or inducements, whether oral, written, expressed or implied, that in any way affect or condition the validity of this Agreement or alter its terms.

(g) Joint Work Product. This Agreement is a compromise and settlement of disputed issues and claims and is a product of arms-length negotiations and the drafting of the Parties. Ambiguities in this Agreement shall not be construed by operation of law against any Party. This Agreement has no precedential value other than as to the matters within its scope.

(h) Validity of Waiver. No waiver of this Agreement or of any of the promises, obligations, terms, or conditions hereof shall be valid unless it is written and signed by the Party against whom the waiver is to be enforced.

(i) **Binding Effect.** This Agreement shall be binding upon and shall inure to the benefit of the Parties, their successors, parent companies, subsidiaries, affiliates, assigns, agents, directors, officers, employees, and shareholders.

(j) **Headings.** The headings used in the Agreement are inserted for convenience of reference only and shall not affect the meaning of this Agreement.

(k) **Notices.** All notices, requests or other communications in connection with or relating to this Agreement shall be in writing and sent (a) by certified mail, with return receipt requested, (b) by Federal Express or other overnight service, or (c) by facsimile or electronic mail, if acknowledged as received. A notice shall be deemed to have been delivered on the date of its delivery.

(l) **Governing Law.** This Agreement shall be governed by, and construed and enforced in accordance with, the laws of Washington, without reference to its choice of law principles.

(m) **Severability.** If any provision of this Agreement shall be invalid or unenforceable under applicable law, such invalidity or unenforceability shall not invalidate or render unenforceable any other provision of this Agreement, and this Agreement shall be construed as if it did not contain such invalid or unenforceable provision; provided, that if the invalid or unenforceable provision is a material provision of this Agreement, or the invalidity or unenforceability materially affects the rights or obligations of a Party hereunder or the ability of a Party to perform any material provision of this Agreement, the Parties shall promptly renegotiate in good faith and amend in writing this Agreement in order to make such mutually acceptable revisions to this Agreement as may be required in order to conform the Agreement to applicable law.

(n) **Amendment.** This Agreement shall be amended only by a written instrument signed by each Party.

(o) **Execution as Condition Precedent.** A condition precedent to the enforceability of this Agreement is the execution of this Agreement by all Parties.

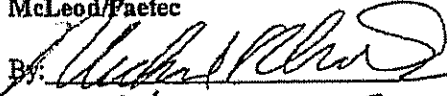
(p) **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties on the matters raised herein, and this Agreement shall supersede and control any and all prior communication, correspondence, memorialization of agreement, or prior agreement between the Parties or their representatives relative to the matters addressed herein.

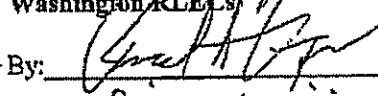
(q) **Counterparts.** This Agreement may be executed in one or more counterparts, including via electronic scan or facsimile, each of which shall be considered an original, and all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed and delivered by their duly authorized representatives as of the date first written above.

McLeod/Paetec

Washington REECs

By: 

By: 

Printed: Michael Rhodin

Printed: Richard A. Finnegan

Title: SVP - Govt Affairs

Title: Attorney

Date: May 3, 2012

Date: May 4, 2012