

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON INDEPENDENT	)	DOCKET UT-111816
TELECOMMUNICATIONS	)	
ASSOCIATION, WASHINGTON	)	
EXCHANGE CARRIER	)	ORDER 04
ASSOCIATION, THE TOLEDO	)	
TELEPHONE CO., INC., TENINO	)	
TELEPHONE COMPANY, KALAMA	)	INITIAL ORDER APPROVING
TELEPHONE COMPANY AND	)	SETTLEMENT AGREEMENT
HOOD CANAL TELEPHONE	)	
COMPANY, d/b/a HOOD CANAL	)	
COMMUNICATIONS,	)	
	)	
Complainants,	)	
	)	
v.	)	
	)	
MCLEODUSA	)	
TELECOMMUNICATIONS	)	
SERVICES, L.L.C. AND PAETEC	)	
COMMUNICATIONS, INC.,	)	
	)	
Respondents.	)	
	)	
.....	)	

1 **Synopsis.** *This is an Administrative Law Judge’s Initial Order that is not effective unless approved by the Commission or allowed to become effective as described in the notice at the end of this Order. If this Initial Order becomes final, the parties’ proposed Settlement Agreement will be approved, and the complaint will be dismissed with prejudice.*

2 **Nature of Proceeding.** This docket involves a formal complaint (Complaint) filed by the Washington Independent Telecommunications Association (WITA), on behalf of itself and its participating member companies, the 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 (collectively Complainants) against McLeodUSA Telecommunications Services, Inc. (McLeodUSA) and PAETEC Communications, Inc. (PAETEC) alleging that McLeodUSA and PAETEC are sending telecommunications traffic to incumbent local exchange carriers for termination and are altering the data in the call signaling stream to mask the true origination point or jurisdiction of the traffic, therefore making it appear as if the telecommunications traffic is not subject to access charges.

3 **Appearances.** Richard A. Finnigan, Olympia, Washington, represents Complainants. Arthur A. Butler, Seattle, Washington, represents McLeodUSA and PAETEC.

4 **Settlement Agreement.** On May 7, 2012, the parties filed a Settlement Agreement, supporting narrative, and joint motion to approve the agreement and dismiss the Complaint. The Settlement Agreement requires McLeodUSA and PAETEC to pay a confidential sum to WITA and the participating parties in resolution of the claims made in the Complaint.<sup>1</sup> All parties agree to abide by the Federal Communications Commission's (FCC's) call signaling rules related to the population of signaling record information.<sup>2</sup>

5 **Evaluation of Settlement.** WAC 480-07-750(1) states in part: "The commission will approve settlements when doing so is lawful, the settlement terms are supported by an appropriate record, and when the result is consistent with the public interest in light of all the information available to the commission." Thus, the Commission considers the individual components of the Settlement Agreement under a three-part inquiry, asking:

- Whether any aspect of the proposal is contrary to law.
- Whether any aspect of the proposal offends public policy.
- Whether the evidence supports the proposed elements of the Settlement Agreement as a reasonable resolution of the issue(s) at hand.

6 The Commission must determine one of three possible results:

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<sup>1</sup> Settlement Agreement ¶ 1(a)(i).

<sup>2</sup> Narrative in Support of Settlement Agreement ¶ 8.

- Approve the proposed settlement without condition.
- Approve the proposed settlement subject to conditions.
- Reject the proposed settlement.

7 **Commission Decision:** The Settlement Agreement is approved without condition. The terms in the Settlement Agreement are not contrary to law or public policy and reasonably resolve all issues in this proceeding. McLeodUSA and PAETEC will pay compensation to WITA and its participating members, and all parties agree to abide by the FCC's call signaling rules related to the population of signaling record information. This negotiated resolution is consistent with the public interest.

**ORDER**

**THE COMMISSION ORDERS:**

- 8 (1) The Settlement Agreement is approved without condition; and
- 9 (2) The Complaint is dismissed with prejudice.

Dated at Olympia, Washington, and effective May 16, 2012.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

GREGORY J. KOPTA  
Administrative Law Judge

## NOTICE TO PARTIES

This is an Initial Order. The action proposed in this Initial Order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order, and you would like the Order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a *Petition for Administrative Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within ten (10) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order any party may file a Petition to Reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

RCW 80.01.060(3) provides that an Initial Order will become final without further Commission action if no party seeks administrative review of the Initial Order and if the Commission fails to exercise administrative review on its own motion.

One copy of any Petition or Answer filed must be served on each party of record with proof of service as required by WAC 480-07-150(8) and (9). An Original and **seven (7)** copies of any Petition or Answer must be filed by mail delivery to:

Attn: David W. Danner, Executive Director and Secretary  
Washington Utilities and Transportation Commission  
P.O. Box 47250  
Olympia, Washington 98504-7250