

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON INDEPENDENT)	DOCKET UT-111816
TELECOMMUNICATIONS)	
ASSOCIATION, WASHINGTON)	
EXCHANGE CARRIER)	ORDER 01
ASSOCIATION, THE TOLEDO)	
TELEPHONE CO., INC., TENINO)	
TELEPHONE COMPANY, KALAMA)	PREHEARING CONFERENCE
TELEPHONE COMPANY AND)	ORDER; NOTICE OF HEARING
HOOD CANAL TELEPHONE)	(Set for May 15 – 17, 2012)
COMPANY, d/b/a HOOD CANAL)	
COMMUNICATIONS,)	
)	
Complainants,)	
)	
v.)	
)	
MCLEODUSA)	
TELECOMMUNICATIONS)	
SERVICES, L.L.C. AND PAETEC)	
COMMUNICATIONS, INC.,)	
)	
Respondents.)	
)	
.....)	

1 NATURE OF PROCEEDING. This docket involves a formal 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.

- 2 **CONFERENCE.** The Washington Utilities and Transportation Commission (Commission) convened a prehearing conference in this docket at Olympia, Washington on November 28, 2011, before Administrative Law Judge Gregory J. Kopta.

- 3 **APPEARANCES.** Richard A. Finnigan, Olympia, Washington, represents Complainants. Arthur A. Butler, Seattle, Washington, represents McLeodUSA and PAETEC. Dennis Ahlers, Golden Valley, Minnesota, represents Integra Telecom, Electric Lightwave, and Advanced Telcom (collectively Integra). Contact information for the parties' representatives and others designated to receive electronic distribution of documents is attached as Appendix A to this order.

- 4 **DISCLOSURE.** Judge Kopta disclosed that as an attorney in private practice prior to joining the Commission in September 2010, he represented McLeodUSA and PAETEC in various matters, although none that involved the subject matter or issues raised in this docket. Pending confirmation from Complainants, counsel representing the parties at the prehearing conference had no objection to Judge Kopta presiding over this proceeding.

- 5 **PETITION TO INTERVENE.** Integra petitioned in writing to intervene in the docket. Integra clarified during the prehearing conference that its interests are limited to monitoring the proceeding, and Integra agreed that it could do so as an interested person on the electronic distribution list without formal intervention in the docket. Accordingly, Integra withdrew its petition to intervene.

- 6 **PROTECTIVE ORDER.** The parties ask that the Commission enter a protective order in this docket under RCW 34.05.446, RCW 80.04.095, WAC 480-07-420 and WAC 480-07-423 to protect the confidentiality of proprietary information. The request was granted and a protective order will be entered in this docket.

- 7 **DISCOVERY.** Discovery will be conducted pursuant to the Commission’s discovery rules, WAC 480-07-400 – 425. The Commission urges the parties to work cooperatively together to avoid having to bring discovery matters forward for formal resolution.
- 8 **PROCEDURAL SCHEDULE.** The parties agreed on a procedural schedule during the conference. The Commission adopts this procedural schedule, which is attached to this Order as Appendix B.
- 9 **NOTICE OF HEARING.** The Commission will hold evidentiary hearings in this matter beginning **May 15, 2012, at 9:30 a.m., and continuing thereafter, as necessary, on May 16 and 17, 2012**, in the Commission’s Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.
- 10 **DOCUMENT PREPARATION AND FILING REQUIREMENTS.** Parties must file an original plus three (3) copies of all pleadings, motions, briefs, and other prefiled materials. These materials must conform to the format and publication guidelines in WAC 480-07-395 and WAC 480-07-460. The Commission prefers that materials be three-hole punched with *oversized* holes to allow easy handling. The Commission may require a party to refile any document that fails to conform to these standards.
- 11 All filings must be mailed or delivered to the Executive Director and Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 S. Evergreen Park Drive, S.W. Olympia, Washington 98504-7250. Both the post office box and street address are required to expedite deliveries by the U.S. Postal Service.
- 12 An electronic copy of all filings must be provided through the Commission’s Web Portal (www.utc.wa.gov/e-filing) or by e-mail delivery to records@utc.wa.gov. Alternatively, parties may furnish an electronic copy by delivering with each filing a 3.5-inch IBM-formatted high-density diskette or CD including the filed document(s). Parties must furnish electronic copies in MS Word 6.0 (or later) supplemented by a

separate file in .pdf (Adobe Acrobat) format. Parties must follow WAC 480-07-140(5) in organizing and identifying electronic files.

- 13 **ELECTRONIC SUBMISSION OF DOCUMENTS.** Parties may submit documents electronically to the Commission on the filing deadline to expedite the filing process, but must file an original, plus three (3) paper copies, of the documents with the Commission by 12:00 noon on the first business day following the filing deadline established in the procedural schedule. WAC 480-07-145(6). Parties may submit documents electronically through the Commission's Web Portal (www.utc.wa.gov/efiling) or by e-mail to records@utc.wa.gov. Finally, to perfect filing, parties must simultaneously provide e-mail courtesy copies of filings to the presiding administrative law judge (gkopta@uc.wa.gov) as well as to the parties to the proceeding.
- 14 **ALTERNATE DISPUTE RESOLUTION.** The Commission supports the informal settlement of matters before it. Parties are encouraged to consider means of resolving disputes informally. The Commission does have limited ability to provide dispute resolution services; if you wish to explore those services, please call the Director, Administrative Law Division, at 360-664-1355.
- 15 **NOTICE TO PARTIES: A party who objects to any portion of this Order must file a written objection within ten (10) calendar days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. The service date appears on the first page of the order in the upper right-hand corner. Absent such objection, this Order will control further proceedings in this matter, subject to Commission review.**

Dated at Olympia, Washington, and effective November 30, 2011.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

GREGORY J. KOPTA
Administrative Law Judge

APPENDIX A

**PARTIES' REPRESENTATIVES
DOCKET UT-111816**

PARTY	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
WITA, et al.	Richard A. Finnigan Attorney at Law 2112 Black Lake Blvd. SW Olympia, WA 98512	(360) 956-7001	(360) 753-6862	rickfimm@localaccess.com
McLeodUSA and PAETEC	Arthur A. Butler Ater Wynne LLP 601 Union Street Suite 1501 Seattle, WA 98101-3981	(206) 623-4711	(206) 467-8406	aab@aterwynne.com
	<i>Additional Persons (email distribution only)</i>			
McLeodUSA and PAETEC	Stephen J. Kennedy			sjk@aterwynne.com
	<i>Interested Persons (email distribution only)</i>			
Integra Telecom, Electric Lightwave, and Advanced Telcom	Dennis Ahlers Associate General Counsel			ddahlers@integratelecom.com

APPENDIX B
PROCEDURAL SCHEDULE
DOCKET UT-111816

EVENT	DATE
Complainants' Prefiled Opening Testimony	February 3, 2012
Respondents' Prefiled Response Testimony	April 6, 2012
Complainants' Prefiled Rebuttal Testimony	April 27, 2012
Evidentiary Hearings	May 15-17, 2012