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1                                    BEFORE THE WASHINGTON STATE  
2                                    UTILITIES AND TRANSPORTATION COMMISSION

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3 WASHINGTON INDEPENDENT            )  
4 TELECOMMUNICATIONS ASSOCIATION, )  
5 WASHINGTON EXCHANGE CARRIER   )  
6 ASSOCIATION, THE TOLEDO         )  
7 TELEPHONE CO., INC., TENINO     )  
8 TELEPHONE COMPANY, KALAMA       )  
9 TELEPHONE COMPANY and HOOD      )  
10 CANAL TELEPHONE COMPANY, d/b/a )  
11 HOOD CANAL COMMUNICATIONS,      )  
12                                    )  
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DOCKET UT-111816

vs.

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3 McLEODUSA TELECOMMUNICATIONS   )  
4 SERVICES, L.L.C. and PAETEC     )  
5 COMMUNICATIONS, INC.,           )  
6                                    )  
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13                                    PREHEARING CONFERENCE, VOLUME I  
14                                    Pages 1 - 12  
15                                    ADMINISTRATIVE LAW JUDGE GREGORY J. KOPTA

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16                                    10:33 a.m.

17                                    NOVEMBER 28, 2011

18                                    Washington Utilities and Transportation Commission  
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1 A P P E A R A N C E S

2 ADMINISTRATIVE LAW JUDGE:

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1 JUDGE KOPTA: Let's be on the record in  
2 Docket UT-111816 entitled Washington Independent  
3 Telecommunications Association, et al., versus  
4 McLeodUSA Telecommunications Services, L.L.C., and  
5 PAETEC Communications, Inc. Today is Monday,  
6 November 28th, 2011, approximately 10:30 in the  
7 morning, and we are here for a prehearing conference.

8 Let's start this morning by taking appearances  
9 by those in the room, beginning with the complainant.

10 MR. FINNIGAN: Appearing for  
11 the complainants is Richard Finnigan. My address is  
12 2112 Black Lake Boulevard, Olympia, Washington 98512.  
13 My phone is (360) 956 --

14 JUDGE KOPTA: Actually, I'm going to cut  
15 you off there. We have that information, so we  
16 don't --

17 MR. FINNIGAN: -- 7001.

18 JUDGE KOPTA: I'm dispensing with long  
19 form appearances, unless you really want to.

20 MR. FINNIGAN: No. I was struggling,  
21 because I can never remember my fax number because we  
22 never use it. That was getting in the way. I was  
23 going, What is that? I have no clue.

24 JUDGE KOPTA: I don't know why we still  
25 do that.

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1 MR. BUTLER: I'm glad you stumbled. It  
2 saved me.

3 JUDGE KOPTA: Thank you, Mr. Finnigan.  
4 Mr. Butler.

5 MR. BUTLER: Arthur A. Butler from the  
6 law firm of Ater Wynne, LLP, representing McLeod  
7 Telecommunications Services, L.L.C., and PAETEC  
8 Communications, Inc.

9 JUDGE KOPTA: And on the bridge line?

10 MR. AHLERS: Dennis Ahlers, that's  
11 A-H-L-E-R-S, Associate General Counsel with Integra,  
12 representing the intervenors.

13 JUDGE KOPTA: All right.

14 Is there anyone else who wishes to make an  
15 appearance at this point?

16 (Pause in the proceedings.)

17 JUDGE KOPTA: Hearing none, the next  
18 item of business on my list is a disclosure. Although  
19 those who are in the room and on the bridge line have  
20 known me for many years, I will nevertheless disclose  
21 that when I was in private practice, prior to joining  
22 the Commission, I represented McLeod  
23 Telecommunications Services, L.L.C. and PAETEC  
24 Communications, not on any issues that are at issue in  
25 this proceeding. But in the interest of disclosure, I

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1 am letting people know about that, and giving the  
2 parties the opportunity to object to my presiding over  
3 this proceeding if they so choose.

4 Do we have any objections or concerns that  
5 want to be expressed by the parties?

6 MR. FINNIGAN: I have no objection. I  
7 will have to let my clients know, but can't imagine  
8 there will be an objection once I disclose it to them.

9 JUDGE KOPTA: You are certainly willing  
10 [sic] to pose an objection by letter or motion or any  
11 other way you choose, once you consult with your  
12 client.

13 MR. BUTLER: No objection on the part of  
14 respondents.

15 JUDGE KOPTA: All right.

16 Mr. Ahlers, you have not yet been granted  
17 intervention status for your client yet, but do you  
18 have any objections at this point?

19 MR. AHLERS: No, we don't.

20 JUDGE KOPTA: Thank you.

21 Moving on to that issue of intervention, I  
22 have received one petition to intervene from Integra  
23 and associated companies. Is there anyone else that  
24 wishes to intervene?

25 (Pause in the proceedings.)

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1                   JUDGE KOPTA: Hearing none, we will  
2 address Integra's petition.

3                   I have read your petition, Mr. Ahlers. Do you  
4 have anything you would like to add to what you have  
5 included in your written petition to intervene?

6                   MR. AHLERS: Just this, Your Honor: The  
7 intent essentially of our petition is to -- is to  
8 essentially monitor this proceeding. We obviously  
9 don't think we can ask for relief in a proceeding in  
10 which we have not filed a complaint. Our intent is to  
11 file a complaint, and then at a future date, probably  
12 it would be a consideration of whether the two should  
13 be merged into one docket. But at this point, it's  
14 merely for the purpose of monitoring the proceeding.

15                   JUDGE KOPTA: Well, that was going to be  
16 something that I was going to point out, that since  
17 this is a complaint proceeding, any intervenor would  
18 not be entitled to any relief specific to that  
19 company. But since you recognize that, then I don't  
20 think there's a need to belabor that, unless another  
21 party wishes to comment on that particular issue.

22                   Moving to that, are there any objections to  
23 the intervention of Integra?

24                   MR. FINNIGAN: This is Rick Finnigan.  
25 As I understand it, the purpose for the intervention

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1 would be to monitor the proceeding, to make it easier  
2 for him to get copies of pleadings and things that go  
3 on, but there would be no intent to file their own  
4 testimony or do anything like a full-party status.

5 If that understanding is correct, I don't have  
6 an objection and would be happy to include him on the  
7 service list, include Integra on the service list, and  
8 provide copies of what documents are filed in this  
9 proceeding.

10 JUDGE KOPTA: Mr. Butler?

11 MR. BUTLER: I agree with the statement  
12 from Mr. Finnigan, that with the modifications  
13 expressed by Ahlers, the intent is to monitor and not  
14 to seek independent relief, that we have no objection.

15 JUDGE KOPTA: Mr. Ahlers, just as a  
16 clarifying question, is it your intent, as  
17 Mr. Finnigan represented it, just to essentially be on  
18 the service list for distribution of pleadings and  
19 other documents, and that you would not seek to be  
20 filing your own testimony or otherwise participating  
21 actively in this proceeding?

22 MR. AHLERS: Yes, that's correct. At  
23 least until we file something independently in this  
24 proceeding, that would be simply our intent, yes.

25 JUDGE KOPTA: And if that is the case,

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1 is there a reason that you actually need to be an  
2 intervenor, as opposed to simply having your name on  
3 the interested persons list for this docket with the  
4 Commission?

5 MR. AHLERS: As long as that would get  
6 us the pleadings, I wouldn't have any objection to  
7 withdrawing our petition as an intervenor.

8 JUDGE KOPTA: Since there are only two  
9 parties here, I'm sure that it would not be much of a  
10 hardship to simply include you on the electronic  
11 distribution list for this particular docket, at least  
12 from the Commission's perspective. And if the parties  
13 are willing to do that, then that might seem to better  
14 suit what your interests are, than actually being  
15 granted intervention.

16 MR. AHLERS: That would be acceptable.

17 JUDGE KOPTA: All right.

18 MR. FINNIGAN: That is acceptable to the  
19 complainants.

20 MR. BUTLER: And to the respondents.

21 JUDGE KOPTA: All right, let's go that  
22 route. When I issue the prehearing conference order  
23 in this proceeding, we will include you on the  
24 electronic distribution list. And the parties have  
25 agreed that they will provide you with electronic



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1 copies of any filings that they make.

2 We will, at this point, not grant Integra's  
3 petition to intervene, and we will simply have them as  
4 an interested party in this docket.

5 All right. The next issue is discovery. Is  
6 there a desire to have the Commission's discovery  
7 rules available?

8 MR. FINNIGAN: Yes, your Honor.

9 JUDGE KOPTA: I think that seems  
10 appropriate under these circumstances. We will make  
11 the discovery rules available.

12 Protective order is the next thing. Will that  
13 be necessary?

14 MR. BUTLER: Yes.

15 MR. FINNIGAN: Yes, I agree.

16 JUDGE KOPTA: Ordinarily, I would ask  
17 what kind of information, but I think given the nature  
18 of the complaint, I don't need to do that. We will  
19 issue the standard protective order.

20 And last but not least on my list is a  
21 schedule. Have the parties discussed a schedule for  
22 this proceeding?

23 MR. FINNIGAN: We tried, but missed  
24 connection, so the answer is no.

25 JUDGE KOPTA: Would it be beneficial to

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1 go off the record and have some discussion about that?

2 MR. BUTLER: Sure.

3 MR. FINNIGAN: I think so.

4 JUDGE KOPTA: Then let's be off the  
5 record.

6 (A brief recess.)

7 JUDGE KOPTA: We will be back on the  
8 record.

9 While we were off the record, we had a  
10 discussion of schedule. As I understand it, the  
11 parties have agreed on the following dates: Prefiled  
12 opening testimony will be due on February 3rd, 2012;  
13 response testimony will be due April 6th, 2012;  
14 rebuttal testimony April 27th, 2012; with hearings on  
15 May 15 through 17, 2012; and briefing deadlines to be  
16 established at that time.

17 Did I capture that correctly?

18 MR. FINNIGAN: Yes.

19 MR. BUTLER: Yes.

20 JUDGE KOPTA: All right. I will be  
21 issuing a prehearing conference order with those dates  
22 and also reflecting the other issues that we have  
23 discussed today.

24 Is there anything else to come before the  
25 Commission today?

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(Pause in the proceedings.)

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JUDGE KOPTA: Hearing nothing, we are

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adjourned. Thank you.

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(Prehearing conference adjourned 11:03 a.m.)

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3 STATE OF WASHINGTON

4 COUNTY OF KING

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I, Sherrilyn Smith, a Certified

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Shorthand Reporter and Notary Public in and for the

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State of Washington, do hereby certify that the

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foregoing transcript is true and accurate to the best

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of my knowledge, skill and ability.

11

IN WITNESS WHEREOF, I have hereunto

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set my hand and seal this 6th day of December, 2011.

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SHERRILYN SMITH

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23 MY COMMISSION EXPIRES:

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JUNE 2012

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