REDACTED VERSION

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
Lifeline and Link Up	)	WC Docket No. 03-109
Universal Service Contribution Methodology	)	WC Docket No. 06-122
Numbering Resource Optimization	)	CC Docket No. 99-200
Implementation of the Local Competition Provisions in the Telecommunications Act of 1996	)	CC Docket No. 96-98
Developing a Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
Intercarrier Compensation for ISP-Bound Traffic	)	CC Docket No. 99-68
IP-Enabled Services	)	WC Docket No. 04-36
Establishing Just and Reasonable Rates for Local Exchange Carriers	)	WC Docket No. 07-135

December 22, 2008

REPLY DECLARATION OF WILLIAM A. HAAS

I, William A. Haas, on oath, state and depose as follows:

I. INTRODUCTION

1. My name is William A. Haas. I currently serve as Vice President - Regulatory and Public Policy of PAETEC. PAETEC has three primary operating subsidiaries – PAETEC Communications, Inc., US LEC, and McLeodUSA

Telecommunications Services, Inc. that all do business under the PAETEC name (hereinafter jointly referred to as "PAETEC"). I am submitting this Declaration to provide a factual basis for the comments and recommendations PAETEC submits on several issues related to the inter-carrier compensation and Universal Service Fund ("USF") proposals currently being considered by the Federal Communications Commission ("FCC") in the above-referenced dockets, including information on the self-help activities of certain interexchange carriers ("IXCs") during the competitive local exchange carrier ("CLEC") access rate transition, which began in 2001 pursuant to the FCC's *CLEC Access Reform Order* (*In the Matter of Access Charge Reform, Reform of Access Charges Imposed by Competitive Local Exchange Carriers*, Seventh Report and Order and Further Notice of Proposed Rulemaking, 16 FCC Rcd 9923 (2001) ("*CLEC Access Reform Order*").

II. BACKGROUND

2. After graduating from law school in 1982, I began working for the Iowa State Commerce Commission as an Administrative Law Judge. In July 1983, the Iowa State Commerce Commission was restructured, and I became an Assistant General Counsel in the newly created Office of General Counsel, legal advisor to the re-named Iowa Utilities Board. In October 1984, I joined the Iowa Office of Consumer Advocate as an Assistant General Counsel working on electric, gas and telecommunications rate cases and other matters that came before the Iowa Utilities Board. In 1995, I accepted a position as an Assistant General Counsel with McLeod Telemanagement, Inc., which, in

1996, became McLeodUSA Incorporated, parent company of McLeodUSA Telecommunications Services, Inc., a certificated competitive local exchange carrier.

3. At McLeodUSA, I was initially responsible for state regulatory matters and providing legal support for vendor relations, including relations with the Regional Bell Operating Companies, and the Sales and Marketing organizations. In 2003, I became responsible for all regulatory compliance and public policy matters, as well as providing legal support to the Marketing, Sales and Finance organizations. I was promoted to Deputy General Counsel in 2005. In 2008, McLeodUSA was acquired by PAETEC. My primary responsibilities at PAETEC include federal and state public policy advocacy, regulatory compliance and vendor relations legal support.

III. PAETEC'S FACTUAL INFORMATION

4. In April 2001, the Commission released the *CLEC Access Reform Order*, which addressed a variety of issues arising from disputes between IXCs and CLECs over the level of CLEC interstate access rates. The *CLEC Access Reform Order* revised the Commission's tariff rules to force CLECs to reduce their interstate access rates to mirror those of the incumbent LECs ("ILECs"). In order to avoid too great a disruption for competitive carriers, the Commission implemented the benchmark using a glide path that provided CLECs a safe harbor decrease in CLEC interstate access rates over a period of three (3) years until CLEC rates mirrored the rates of the ILEC serving the same market. (*CLEC Access Reform Order*, 16 FCC Rcd at 9941, 9944, ¶¶

45, 52). In sum, the *CLEC Access Reform Order* provided CLECs a three-year transition period to reduce certain interstate access charge rates.

5. However, rather than allow the Commission's three-year transition period to run its course, certain very large IXCs engaged in self-help tactics to force PAETEC (specifically, the McLeodUSA operating subsidiary) (and other CLECs) to expedite the transition to the ILEC benchmark rates well in advance of the end date contemplated by the *CLEC Access Reform Order*.

6. AT&T began withholding payments to McLeodUSA for *all* switched access services (both interstate *and* intrastate) shortly after the FCC issued the *CLEC Access Reform Order*. By withholding all access charge payments, AT&T forced McLeodUSA to enter into an access service agreement and settlement whereby McLeodUSA "agreed" to bill AT&T *both* interstate and intrastate access rates at ILEC rate levels, which was well below tariffed rate levels, prior to the transition benchmark period established by the FCC. AT&T would not pay McLeodUSA for access services until McLeodUSA had signed the agreement and settlement. By the time a settlement was reached in December 2001, AT&T had withheld payments to McLeodUSA totaling more than *****REDACTED*****. AT&T's withholding of all access payments placed a significant strain on the cash flow of McLeodUSA in 2001.

7. Similarly, MCI refused to pay McLeodUSA any access charges starting in June 2001. By the time MCI and McLeodUSA had settled, MCI had withheld more than *****REDACTED***** in access payments from McLeodUSA. MCI also forced McLeodUSA to agree to bill MCI less than tariffed rates for both

interstate and intrastate access services. Another large IXC also engaged in self help on a more limited basis.

8. The end result of these unfiled "off tariff" agreements that the self-help tactics employed by AT&T, MCI, and other large IXCs forced on McLeodUSA and numerous other CLECs led to several complaint proceedings before state public service commissions. For example, proceedings were instituted by the Minnesota Public Service Commission concerning AT&T and MCI CLEC interstate access rate contracts (MN PSC Dockets C-04-235, C-05-1282; C-06-49; C-06-498). State public utility commission cases arising from IXC self-help tactics are still ongoing; complaints were recently filed by Qwest Communications Corp. with the California Public Utility Commission concerning AT&T, MCI, and other IXC CLEC access charge contracts (CA PUC Case No. 08-08-006) and with the Colorado Public Utilities Commission (CO PUC Docket No. 08F-259T).

IV. DECLARATION

9. I declare that I created this Declaration with the assistance of persons under my direct supervision and that, to the best of my knowledge, the facts represented herein are true and accurate.

William A. Haas