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VIA ELECTRONIC FILING

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, S.W.
Washington, DC 20554

Re: ***Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92; *High Cost Universal Service Support*, WC Docket No. 05-337; *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135; *Connect America Fund*, WC Docket No. 10-90; *A National Broadband Plan for Our Future*, GN Docket No. 09-51**

Notice of Ex Parte Communication

Dear Ms. Dortch:

On October 11, 2011 William A. Haas, Corporate Vice President of Public Policy and Regulatory of PAETEC Holding Corp. ("PAETEC") and the undersigned met with Christine Kurth, Policy Director and Wireline Counsel to Commissioner Robert McDowell.

PAETEC urged the Commission to consider the impact of ICC reductions on CLECs and their customers and adopt a measured transition to ensure continued investment in competitive broadband services. Intercarrier compensation makes up approximately 7% of PAETEC's revenue. The variance between PAETEC's interstate and intrastate access rates varies widely depending on the state,[1] and the revenue impact of equalizing intrastate and interstate access is substantial. As PAETEC showed, AT&T is unlikely to suffer any access revenue losses in one-half of its states because its access rates are already equalized.[2] In those states, AT&T will have no lost access revenues to offset with increased SLCs or retail rates. In addition to the business/residential divide and long-term contract pricing commitments that will prevent CLECs from recouping lost revenues from their business end user customer base during the access flash cut,[3] PAETEC will

[1] *See* PAETEC Confidential Revenue and Cost Data (filed May 23, 2011), at Tab "Term. Rates Combined" (demonstrating the variance between interstate and intrastate rates across the PAETEC operating companies).

[2] PAETEC August 24 Comments, at 12-13.

[3] *Id.*, at 14.

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face an effective price ceiling from AT&T's rates that will constrain its ability to recoup its significant terminating intrastate access revenue losses through retail rates and/or SLCs.

PAETEC also urged the FCC to find, in its first Order on this NPRM, that the exchange of IP voice traffic via IP-to-IP interconnection arrangements with ILECs is subject to Sections 251 and 252. Such a finding is necessary so that good faith carrier-to-carrier negotiations for IP interconnection can begin, giving state commissions and the FCC a better basis for determining how/what costs are incurred in a forward looking IP network architecture and how they should be recovered. Unless the Commission confirms the ILECs' obligations to negotiate IP-to-IP interconnection in good faith, they will continue to deny that they have any obligation to interconnect on an IP-to-IP basis at all. The Commission's concerns expressed in 1996 remain true today: "Negotiations between incumbent LECs and new entrants are not analogous to traditional commercial negotiations in which each party owns or controls something the other party desires . . . The inequality of bargaining power between incumbents and new entrants militates in favor of rules that have the effect of equalizing bargaining power in part because many new entrants seek to enter national or regional markets."[4]

With respect to phantom traffic, PAETEC emphasized that the rule proposed in the NPRM will not close a loophole that permits entities to avoid payment for terminating charges. Although the proposed rule would help terminating carriers resolve the question of ***what*** jurisdiction the call should be billed as, it will not assist terminating carriers in identifying ***who*** should be billed. In order to identify the financially responsible provider, the terminating carrier needs the Carrier Identification Code ("CIC") or Operating Company Number ("OCN") of the provider delivering the call to the terminating tandem. Such CIC/OCN information is needed regardless of whether rates vary by jurisdiction or are unified. Without such information, phantom traffic will continue and the Commission will not have solved the problem of unbillable minutes of use. Indeed, masking the identity of the carrier delivering the call to the tandem could enable a significant ongoing arbitrage opportunity.

Sincerely yours,

/s/ *electronically signed*

Tamar E. Finn

cc (by e-mail):

Christine Kurth

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[4] *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499, at ¶ 55 (1996) (emphasis added) ("First Local Competition Order").