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BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
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Arizona Corporation Commission

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IN THE MATTER OF THE REVIEW AND
POSSIBLE REVISION OF ARIZONA
UNIVERSAL SERVICE FUND RULES, ARTICLE
12 OF THE ARIZONA ADMINISTRATIVE
CODE.

Docket No. RT-00000H-97-0137

IN THE MATTER OF THE INVESTIGATION OF
THE COST OF TELECOMMUNICATIONS
ACCESS

Docket No. T-00000D-00-0672

**PAETEC's INITIAL COMMENTS ON PROCEDURE AND
PROPOSED PROTECTIVE AGREEMENT**

Pursuant to the December 19, 2008, Procedural Order, McLeodUSA Telecommunications Services, Inc. d/b/a PAETEC Business Services ("PAETEC") submits initial comments on procedural recommendations and the proposed protective order submitted by Commission Staff on January 16, 2009.

A. Procedural Recommendations.

The Federal Communications Commission ("FCC") continues to have several open dockets regarding reform of intercarrier compensation ("ICC"). Two of the FCC's global reform proposals purport to require state commissions to use a new methodology to reform intrastate access rates. Indeed, the changes contemplated by the FCC in its November 2008 proposals were so significant that it would not have made sense for this proceeding to move forward had the FCC adopted one of its ICC reform proposals. While the FCC has been unable to agree on an ICC and Universal Service Fund reform package to date, it remains a possibility that the FCC could move

1 forward with ICC reform in the near term (60-90 days). Thus, PAETEC continues to believe that
2 the Arizona Corporation Commission ("Commission") should defer a decision on whether to
3 move forward with an investigation of intrastate access rates until it is clear that the FCC is not
4 going act in the near term.

5 Even if the Commission decides to move the proceeding forward, it should do so with a
6 procedural schedule that is flexible and able to accommodate certain aspects of the reform
7 timetable that the FCC had contemplated. PAETEC submits it would be a waste of the
8 Commission's and interested parties' limited resources to quickly conduct a proceeding only to
9 have to redo much, if not all, of the work to conform to subsequent FCC rulings or determinations.
10 For example, if the FCC orders that a new cost methodology be used to establish rates for
11 intercarrier compensation, or if the FCC directs states to establish a statewide rate of some kind as
12 it has proposed, much of the work done through this Commission proceeding may need to be
13 redone. Moreover, the Commission should be mindful of the fact that the FCC proposals
14 contemplate that ICC reform would be implemented over a 10 year time period. The logical
15 conclusion from that fact is that at least the FCC recognized there was no need to rush through a
16 state proceeding. This is especially true when it may well be the case that individual LEC rates are
17 already set at reasonable levels. Moreover, given the proposed linkage between the access charges
18 and the AUSF, AUSF reform would also be affected by FCC action.

19 In addition to considering the timetable contemplated for implementing ICC reform, there
20 are several gating issues that could be initially considered in a generic fashion that would then be
21 followed by an opportunity for each carrier to provide details regarding their own Arizona costs. It
22 would be difficult to concurrently conduct carrier-specific proceedings without having direction on
23 underlying policy disputes. There certainly is precedent for such an approach. For example, state
24 agencies did not start cost dockets for RBOCs to set UNE rates until the TELRIC methodology
25 had been adopted and established through FCC rules. Other state commissions have adopted such
26 an approach, and in some instances, state commissions have stopped their generic proceedings and
27

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1 instead have indicated they will use the current methodology of opening complaints against LECs
2 with rates that may be particularly unreasonable on their face.

3 **B. Comments on Proposed Protective Order**

4 The proposed protective order is acceptable to PAETEC.

5 RESPECTFULLY SUBMITTED this 23rd day of January, 2009.

6 **PAETEC BUSINESS SERVICES**

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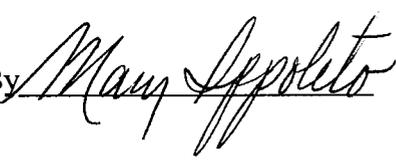
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