BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN RE:

Docket No. TC12-016

MIDCONTINENT COMMUNICATIONS,

Complainant,

v.

PAETEC COMMUNICATIONS, INC., and MCLEODUSA TELECOMMUNICATIONS SERVICES, L.L.C.,

Respondents.

AMENDED COMPLAINT AND REQUEST FOR DECLARATORY ORDER

NATURE OF THE CASE

This Complaint is brought before the South Dakota Public Utilities Commission ("Commission") by Midcontinent Communications ("Midcontinent") against PaeTec Communications, Inc. ("PaeTec") and McLeodUSA Telecommunications Services, L.L.C. ("McLeodUSA"), a wholly owned subsidiary of PaeTec because, upon information and belief, McLeodUSA is engaging in activity whereby it sends telecommunications traffic to Midcontinent for termination and is altering and/or disguising the data in the call signaling stream to mask the true origination point or jurisdiction of the traffic, thereby making the traffic appear as if it is a local telecommunications call not subject to terminating access charges. This type of traffic is commonly referred to in the industry as "phantom traffic."[1] Midcontinent seeks

[1] "Phantom traffic" refers to traffic that terminating networks receive that lacks certain identifying information. In some cases, service providers in the call path intentionally remove or alter identifying information to avoid paying the terminating rates that would apply if the call were accurately signaled and billed." *See In the Matter of Developing an Unified Intercarrier Compensation Regime,* CC Docket No. 01-92, Report and Order and Further Notice of Proposed Rulemaking, adopted October 27, 2011, released November 18, 2011, (hereinafter "*Intercarrier Comp. Order*") at ¶ 703.

a declaratory ruling from the Commission that the practice of altering, masking or disguising the origination point or jurisdiction of non-local traffic violates SDCL §§ 49-31-111 and 49-31-112. Midcontinent also seeks an order requiring McLeodUSA to cease and desist from engaging in any activity that disguises traffic subject to access charges as though it were traffic not subject to access charges. Midcontinent further requests an order requiring McLeodUSA to provide a detailed traffic analysis of all traffic it has sent for termination to Midcontinent from the time it began use of local charge numbers to the present, showing all traffic and call detail records for traffic that originated outside of Midcontinent's local calling area. Finally, Midcontinent seeks an order requiring McLeodUSA to pay access charges on all such identified traffic to the extent access charges have not been paid on such traffic.

In addition to the phantom traffic issue described above, upon information and belief, PaeTec is engaging in activity that results in long distance calls destined for Midcontinent end user customers being delayed, dropped, blocked, and/or otherwise prevented from terminating to the Midcontinent customer. Such activity results in unjust discrimination and disadvantage to Midcontinent and its end users and Midcontinent seeks an order from the Commission declaring such activity to be unlawful and requiring PaeTec to cease and desist all activity designed to delay or prevent telecommunications traffic from being terminated to Midcontinent end users. Midcontinent further seeks an order requiring PaeTec to provide a traffic analysis identifying all such traffic and an order requiring PaeTec to pay a civil fine for each instance identified.

This Complaint is filed pursuant to A.R.S.D. §§ 20:10:01:07.01 and 20:10:01:34, as well as SDCL Chapters 49-13 and 49-31.

THE PARTIES

1. Complainant Midcontinent Communications is a general partnership organized and existing under the laws of the State of South Dakota, with its principal place of business at 3901

North Louise Avenue, Sioux Falls, SD 57107. Midcontinent is a competitive local exchange carrier ("CLEC") engaged in the provisioning of telephone exchange service and exchange access in the State of South Dakota pursuant to a certificate of convenience and necessity granted by the Commission. Midcontinent provides local originating and terminating switched access services pursuant to its Tariff No. 1, effective October 1, 2000.

2. Respondent McLeodUSA Telecommunications Services, L.L.C., is, upon information and belief, a wholly owned subsidiary of PaeTec Communications, Inc., a corporation organized and existing under the laws of the State of Delaware with its principal place of business at One PaeTec Plaza, 600 Willowbrook Office Park, Fairport, NY 14450. McLeodUSA is a certified Interexchange Carrier (IXC) as well as a registered Competitive Local Exchange Carrier (CLEC) in the State of South Dakota. PaeTec is a certified Interexchange Carrier (IXC) in the State of South Dakota. PaeTec's registered agent for service of process in the State of South Dakota is CT Corporation System, 319 S. Coteau Street, Pierre, SD 57501.

JURISDICTION

3. The Commission has jurisdiction over this Complaint pursuant to SDCL §§ 1-26-15, 49-13-1, 49-31-12.1, 49-13-13, 49-13-14, 49-31-3, 49-31-10, 49-31-11, 49-31-38, and 49-31-109 et seq., as well as ARSD 20:10:01:01 and 20:10:01:34.

BACKGROUND

4. Midcontinent is a CLEC providing telephone exchange service, exchange access, and other services in the State of South Dakota. Midcontinent provides originating and terminating switched access services to long distance companies, which allow long distance companies to complete the long distance calls of their customers. For instance, when a long distance carrier's customer places a typical 1+ dialed call, the local exchange carrier ("LEC") serving the customer originates the call over its local exchange facilities in the originating market

and hands the call off to the long distance carrier. The long distance carrier then transports the call across its network to the market where the called party is located, and then hands the call off to the LEC serving the called party. The LEC serving the called party provides terminating access service by delivering the call from the long distance provider's network to the recipient of the call. In this context, the long distance carrier is a wholesale customer of the terminating LEC, as the LEC currently does not bill either the customer placing the call or the customer receiving the call.[2] Rather, the long distance carrier bills its customer for the entire call.

5. In some instances, the long distance provider will hand the call off to a "transiting carrier" for delivery to the LEC serving the called party. There may be more than one transiting carrier involved in delivery of a single call. McLeodUSA and PaeTec each serve as both an IXC and a transiting carrier in South Dakota. McLeodUSA and PaeTec each deliver traffic to Midcontinent through the Qwest Tandem Switch.

6. The rates for intrastate switched access services are regulated by the Commission pursuant to SDCL Chapter 49-31 and ARSD Chapter 20:10:27. Pursuant to SDCL § 49-31-12.1, the tariff of a company shall constitute prima facie evidence that the rates or prices are fair and reasonable.

7. In roughly August, 2010, Midcontinent began noticing millions of minutes of traffic coming from various carriers, including McLeodUSA, for termination by Midcontinent. These calls were delivered by Qwest (n/k/a Centurylink) but did not include all required and available jurisdictional and/or calling party number information. For instance, the information received by Midcontinent contained a Charge Number (CN) that was "local" to the called party

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[2] In the recent Intercarrier Comp. Order, the FCC stated an intention to transition to a bill-and-keep methodology for intercarrier compensation. *See Intercarrier Comp. Order* at ¶ 736 et seq.

number. The calls in dispute terminated to Midcontinent customers in both North Dakota and South Dakota and, to a lesser extent, in Minnesota.

8. Based on the Operating Company Number ("OCN") of the calls, specifically OCN 7270, Qwest was delivering many of these calls on McLeodUSA's behalf. The calls were delivered with a "local" call jurisdiction driven by the Charge Number instead of the Calling Party Number (CPN), even though the CPN was available. In South Dakota, a few of the numbers being utilized as CNs on McLeodUSA traffic include (605) 221-0790, (605) 271-4200, and (605) 338-2131. When Midcontinent began reviewing these calls, it determined that the correct originating/terminating numbers, if they had been provided, would have identified these calls as interstate and/or intrastate in nature.

9. Using a sampling of calls from October, 2010, Midcontinent was able to determine that approximately ten (10) percent of the calls being delivered on behalf of McLeodUSA erroneously contained this "local" charge number. Because the jurisdiction of the calls could not be readily obtained in the information sent by McLeodUSA, the calls were billed at intrastate switched access rates as allowed by SDCL §§ 49-31-111 and 49-31-112. McLeodUSA has refused to remit payment for the traffic in question.

10. When questioned about the use of local charge numbers for non-local traffic, McLeodUSA responded that the local charge number was added deliberately because the traffic in question is VoIP-originated traffic, which McLeodUSA asserts is not subject to switched access charges. (See Attached Exhibit A)[3]

11. The FCC recently explained in detail the problem of "phantom traffic" as follows:

> Service providers need to know certain information for each call to bill for and receive intercarrier payments for traffic that terminates on their networks.

[3] Midcontinent's contacts regarding the phantom traffic have been with employees of the PaeTec entity. Midcontinent has not had any contact with any individuals claiming to be employed by the McLeodUSA entity.

> Specifically, to know what intercarrier compensation charges to apply, a terminating provider must be able to identify the appropriate upstream service provider and the geographic location of the caller (or a proxy for the caller's location). For calls directly connected between an originating service provider and a terminating service provider, this information typically is apparent or easily obtained. However, for calls where the originating and terminating network are not directly connected (i.e., when calls are delivered via tandem transit service or interexchange carrier), accurate call information may not be available because there may be one or more interconnecting service providers that handle the call before delivering it to the terminating service provider. The terminating carrier may not receive accurate identifying information for a variety of reasons. For instance, signaling for the call may never have been populated with accurate information or the information may have been intentionally stripped.
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> As described in the *USF/ICC Transformation NPRM*, terminating service providers that are not directly connected to originating providers receive information about calls sent to their networks for termination from a variety of sources. First, terminating service providers may rely on information contained in the Signaling System 7 (SS7) signaling stream. SS7 is a separate or "out of band" network that runs parallel to the PSTN. Commission rules require carriers that use SS7 to convey the calling party number (CPN) to subsequent carriers on interstate calls where it is technically feasible to do so. Billing records from tandem switch operators are another source of information for terminating service providers about traffic on their networks. Notably, the CPN or Charge Number (CN) information used in billing records is derived from the SS7 signaling stream. Finally, service providers may also rely on identifying information contained in Internet protocol sessions or messages (e.g., Session Initiation Protocol (SIP) header fields) for VoIP calls.
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> The record in this proceeding confirms that numerous service providers have encountered difficulties with traffic arriving for termination with insufficient or inaccurate identifying information. The record suggests that gamesmanship with regard to calling party information is rife. Commenters describe a number of phantom traffic tactics used to avoid higher intercarrier charges including masking intrastate traffic to make it appear interstate or international in nature. One carrier alleges that a common phantom traffic scheme it faces involves carriers ***that disguise traffic by putting a telephone number into the CN field that is local to the terminating exchange to avoid higher intercarrier compensation rates.***

Intercarrier Comp. Order at ¶¶ 707-709 (citations omitted)(emphasis added).[4]

[4] Ironically, in describing the problem of using a local number in the CN field to disguise traffic as "local," the FCC was referring to comments from Windstream, the company that is now the parent company to PaeTec and McLeodUSA. *Id.* at ¶ 709, n.1203.

12. The FCC explained that generally, the CN field is not populated in the SS7 stream when it is the same as the CPN. However, when the CN is different from the CPN, the CN parameter is populated and included in billing records in place of CPN.[5]

13. The FCC went on to require that the CN be passed unaltered where it is different from the CPN, and that the CN field may be used only to contain a calling party's charge number and that it may not contain or be populated with a number associated with an intermediate switch, platform, or gateway, or other number that designates anything other than a calling party's actual charge number. "[T]he record demonstrates that CN substitution is a technique that leads to phantom traffic . . . ."[6]

14. The FCC also determined that the rules regarding CPN and CN fields apply to interconnected VoIP traffic, stating ". . . VoIP service providers will be required to transmit the telephone number of the calling party for all traffic destined for the PSTN that they originate. If they are intermediate providers in a call path, they must pass, unaltered, signaling information they receive indicating the telephone number, or billing number if different, of the calling party."[7]

15. While the FCC's rules are to be applied prospectively, they are consistent with the obligations currently imposed in South Dakota. Specifically, SDCL § 49-31-111 provides:

> An originating carrier of nonlocal telecommunications traffic shall, in delivering its traffic, transmit signaling information in accordance with commonly accepted industry standards giving the terminating carrier information that is sufficient to identify, measure, and appropriately charge the originating carrier for services provided in terminating nonlocal telecommunications traffic. If the originating carrier is delivering both intrastate and interstate nonlocal telecommunications traffic, the originating carrier shall separately provide the terminating carrier with accurate information including verifiable percentage measurements that enables the terminating carrier to appropriately classify nonlocal telecommunications traffic as being either interstate or intrastate, and to assess the appropriate applicable access charges. If accurate and verifiable information allowing

[5] *Id.* at ¶ 712.
[6] *Id.* ¶ 714.
[7] *Id.* ¶ 717.

appropriate classification of the telecommunications traffic is not provided by the originating carrier, the terminating carrier may classify all unidentified nonlocal telecommunications traffic terminated for the originating carrier as intrastate telecommunications traffic for service billing purposes.

16. In addition, SDCL § 49-31-112 provides:

> A transiting carrier shall deliver telecommunications traffic to the terminating carrier by means of facilities and signaling protocols that enable the terminating carrier to receive from the originating carrier all signaling information, as required by §§ 49-31-110 and 49-31-111, the originating carrier transmits with its telecommunications traffic. If any transiting carrier fails to deliver telecommunications traffic to another transiting carrier or to the terminating carrier with all of the signaling information transmitted by the originating carrier as required by §§ 49-31-110 and 49-31-111, and this results in telecommunications traffic that is not identifiable and therefore not billable by the terminating carrier to the appropriate originating carrier, the transiting carrier is liable to the terminating carrier for the transport and termination or access compensation relating to the traffic that cannot be identified and billed to the appropriate originating carrier.

17. By populating the CN field with a local charge number, McLeodUSA has disguised long distance traffic being delivered to Midcontinent as "local traffic," thus preventing Midcontinent from being able to appropriately identify and classify the traffic and bill access charges accordingly.

18. McLeodUSA's claim that much of the traffic in question is VoIP-originated is irrelevant to the question of whether access charges are owed. McLeodUSA is acting as an interexchange carrier, and provides only telecommunications services, regardless of the services provided or used by its customers. Consequently, under Midcontinent's tariff, McLeodUSA is responsible for paying access charges.[8]

19. Further, all of the disputed traffic is delivered to Midcontinent in standard time division multiplexing (TDM) format rather than in Internet Protocol (IP) format. On information

[8] Midcontinent notes that even the FCC's exemption from the payment of access charges by enhanced service providers does not apply when those providers make outgoing calls. Thus, even to the extent that the FCC's enhanced services exemption might be applied to intrastate services used by PaeTec's customers, it would not apply to the services used by PaeTec.

and belief, McLeodUSA delivers the disputed traffic to CenturyLink in TDM format, and it is not converted from IP format to TDM format by CenturyLink. Thus, to the extent that there might be any question as to the applicability of access charges to IP-based traffic, that issue is not raised by this dispute.

20. McLeodUSA's response also acknowledges that not all of its traffic is VoIP-originated.[9] Thus, even under McLeodUSA's theory, there is no basis for failing to pay access charges on at least some portion of the dispute traffic, or for disguising the origins of that traffic.

21. In addition to the foregoing, Midcontinent has recently been receiving numerous inquiries from Midcontinent end users complaining that incoming toll traffic destined to the end users is not getting through. Midcontinent also has received complaints that some customers, including at least one of Midcontinent's large call center customers, have experienced "dead air" when answering toll calls. Midcontinent, in conjunction with CenturyLink, has identified PaeTec as the IXC and/or transiting carrier from whom some of this toll traffic was to be delivered.

22. One of Midcontinent's large call center customers, Midco Connections, operates as an overflow center for national catalog company orders. Just prior to Thanksgiving of 2011, Midco Connections began receiving complaints from its national catalog companies that the overflow calls being sent to Midco Connections were not being received or answered by the call center. Upon analysis, it was determined that Midco Connections was not receiving the calls in question and/or, when they did receive the calls, there was often dead air or no caller on the other end of the call. In addition, many of the calls were populated with the "local" charge number, even though the calls were long distance calls. At least one of the national catalog companies at issue uses PaeTec as its underlying long distance carrier.

[9] *See* Exhibit A (stating that much of the traffic is VoIP-originated).

23. Upon information and belief, PaeTec is engaging in practices whereby calls will not be completed to the called number through such methods as providing extended "dead air" so that the calling party thinks the call is not going through and terminates, or there is dead air followed by a busy signal, or the person on the called party location answers the call and does not hear anyone on the calling party end of the call.

24. Upon information and belief, PaeTec is engaging in such activity to avoid terminating switched access charges.

25. To the extent PaeTec engages in activity whereby calls to Midcontinent's end users are not received by the called party or their receipt is delayed, such conduct violates SDCL § 49-31-10 and § 49-31-11.

26. SDCL § 49-31-10 provides that "[a]ny telecommunications provider in this state shall use great care and diligence in the transmission and delivery of telecommunications services and shall deliver telecommunications messages to the persons for whom they are intended."

27. SDCL § 49-31-11 provides in part that "[n]o person or telecommunications company may unjustly or unreasonably discriminate between persons in providing telecommunications services. . . . No telecommunications company may make or give any unjust or unreasonable preference or advantage to any person, nor unjustly or unreasonably prejudice or disadvantage any person, in the provision of any telecommunications service. . . ."

COUNT I
DECLARATORY RULING

28. Midcontinent re-alleges paragraphs 1 through 27 above and incorporates the same as if fully set forth herein.

29. There is an actual controversy between Midcontinent and McLeodUSA with respect to whether McLeodUSA disguises or otherwise deliberately masks appropriate

jurisdictional information in telecommunications traffic it sends to Midcontinent for termination. The resolution of this controversy is necessary to determine whether McLeodUSA has properly paid switched access charges for those calls.

30. There is an actual controversy between Midcontinent and PaeTec with respect to whether PaeTec engages in activity that deliberately delays or prevents the delivery or termination of toll traffic destined to Midcontinent end users.

31. Midcontinent is entitled to a declaratory ruling that the practice of altering data and/or inserting data such as a local Charge Number (CN) on long distance traffic, whether or not VoIP originated, to disguise its true origination point is a violation of SDCL §§ 49-31-111 and 49-31-112.

32. Midcontinent is entitled to a declaratory ruling that the practice of deliberately delaying or preventing the delivery or termination of toll traffic to Midcontinent end users in South Dakota is a violation of SDCL §§ 49-31-10 and 49-31-11.

COUNT II
CEASE AND DESIST ORDER

33. Midcontinent re-alleges paragraphs 1 through 32 above and incorporates the same as if fully set forth herein.

34. Midcontinent seeks an order from the Commission that McLeodUSA be required to cease and desist from engaging in any activity that disguises traffic subject to access charges as though it were traffic not subject to access charges, including, but not limited to, altering data or inserting data within the call signaling stream to mask the true origination point or jurisdiction of the traffic.

35. Midcontinent seeks an order from the Commission that PaeTec be required to cease and desist from engaging in any activity that delays or prevents the delivery or termination of toll traffic to Midcontinent end users.

COUNT III
ORDER FOR TRAFFIC ANALYSIS

36. Midcontinent re-alleges paragraphs 1 through 35 above and incorporates the same as if fully set forth herein.

37. Pursuant to SDCL § 49-31-113, upon the request of a terminating carrier, a transiting carrier shall provide detailed transit traffic records or billing records related to the telecommunications traffic delivered to the terminating carrier.

38. McLeodUSA has failed and refused to provide detailed traffic records or billing records related to the telecommunications traffic it has sent for delivery to Midcontinent.

39. Pursuant to SDCL § 49-31-114, the Commission is authorized to order appropriate relief pending final resolution of a complaint proceeding when a telecommunications carrier is damaged by noncompliance with the provisions of §§ 49-31-109 to 49-31-115.

40. Midcontinent seeks an order from the Commission that McLeodUSA be required to immediately provide detailed call records, from the time it began inserting local charge numbers to the present, sufficient to identify the true origination point or calling party jurisdiction of all traffic sent by McLeodUSA to Midcontinent for termination.

41. Midcontinent seeks an order from the Commission that PaeTec be required to provide detailed call records sufficient to identify all traffic PaeTec has delayed or prevented from being delivered or terminated to Midcontinent end users.

COUNT IV
BREACH OF CONTRACT

39. Midcontinent re-alleges paragraphs 1 through 41 above and incorporates the same as if fully set forth herein.

40. Pursuant to the Midcontinent tariffs, McLeodUSA ordered, used, and benefited from intrastate switched access services, specifically, terminating switched access service. Midcontinent provided terminating access services to McLeodUSA and continues to provide such services today.

41. McLeodUSA, as a customer of Midcontinent, should be charged for the intrastate switched access services it utilized based on the rates and terms set forth in the approved Midcontinent tariffs.

42. McLeodUSA's use of the switched access services provided by Midcontinent, pursuant to the approved tariffs on file with the Commission, established valid and binding contracts for which McLeodUSA is liable.

43. McLeodUSA's failure to provide appropriate call information to allow Midcontinent to bill its switched access charges constitutes a refusal to pay for the intrastate switched access services rendered and constitutes a breach of the applicable Midcontinent tariffs and, therefore, a breach of contract, by which Midcontinent has been damaged and continue to be damaged in an amount to be proven at hearing.

COUNT V
PAYMENT FOR SERVICES RENDERED

44. Midcontinent re-alleges paragraphs 1 through 43 above and incorporates the same as if fully set forth herein.

45. Midcontinent provided intrastate switched access services to McLeodUSA through the termination of long distance traffic. Such service conferred a benefit upon McLeodUSA because McLeodUSA was able to complete calls on behalf of its customers and/or on behalf of other carriers and collect fees from its customers and/or those other carriers for the provision of long distance and/or transit service. McLeodUSA has not paid Midcontinent for the provision of such access services on traffic disguised as local traffic.

46. McLeodUSA cannot be allowed to retain the benefit of the services provided by Midcontinent without properly compensating Midcontinent for the fair and reasonable value of the services provided.

47. Pursuant to SDCL § 49-31-12.1, the approved tariffs on file with the Commission are prima facie evidence that the rates or prices contained therein are fair and reasonable.

48. Midcontinent is entitled to payment from McLeodUSA in an amount to be proven following submission of the traffic analysis requested in Count III above, plus applicable pre and post judgment interest.

49. Pursuant to SDCL §§ 49-31-111 and 49-31-112, to the extent McLeodUSA cannot provide accurate and verifiable information allowing the appropriate classification of the traffic, as requested in Count III above, Midcontinent is entitled to classify all such traffic as intrastate telecommunications traffic for billing purposes.

COUNT VI
UNJUST DISCRIMINATION

50. Midcontinent re-alleges paragraphs 1 through 49 above and incorporates the same as if fully set forth herein.

51. PaeTec's failure to use care and diligence in the transmission and delivery of telecommunications service and to deliver telecommunications messages intended for Midcontinent customers is a violation of SDCL § 49-31-10.

52. PaeTec's delay in delivering, and failure to deliver, telecommunications traffic destined for Midcontinent end users results in unjust and unreasonable prejudice, disadvantage, and discrimination against Midcontinent and its end users in violation of SDCL § 49-31-11.

53. Pursuant to SDCL § 49-31-111, PaeTec should be fined not less than one thousand, nor more than five thousand dollars for each instance in which PaeTec has engaged in activity to delay or prevent the delivery of telecommunications traffic to Midcontinent end users.

PRAYER FOR RELIEF

For the foregoing reasons, Midcontinent is entitled to judgment:

1. Declaring that the practice of altering data and/or inserting data such as a local Charge Number (CN) on long distance traffic, whether or not VoIP originated, in order to disguise its true jurisdictional origination point is a violation of SDCL §§ 49-31-111 and 49-31-112.

2. Declaring that the practice of deliberately delaying or preventing the delivery or termination of toll traffic to Midcontinent end users in South Dakota is a violation of SDCL §§ 49-31-10 and 49-31-11.

3. Ordering that McLeodUSA be required to cease and desist from engaging in any activity that disguises traffic subject to access charges as though it were traffic not subject to access charges, including, but not limited to, altering data or inserting data within the call signaling stream to mask the true origination point or jurisdiction of the traffic.

4. Ordering that PaeTec be required to cease and desist from engaging in any activity that delays or prevents the prompt delivery or termination of toll traffic to Midcontinent end users.

5. Ordering that McLeodUSA be required to immediately provide detailed call records, from the time it originally began inserting local charge numbers to the present, sufficient to identify the true origination point or calling party jurisdiction of all traffic sent by McLeodUSA to Midcontinent for termination, whether or not such traffic was VoIP originated, and whether or not such traffic was originated by McLeodUSA or carried by McLeodUSA as a transiting carrier.

6. Ordering that PaeTec be required to immediately provide detailed call records sufficient to identify all telecommunications traffic destined to Midcontinent end users that was either delayed or prevented from being delivered or terminated to such end users.

7. Ordering that McLeodUSA be required to pay Midcontinent past due terminating switched access charges, including pre and post judgment interest, on all toll traffic identified in the call records provided in part 5 above or, alternatively, to the extent McLeodUSA cannot provide sufficient information to identify and jurisdictionalize the traffic, that McLeodUSA be required to pay Midcontinent for all traffic at the intrastate switched access rates.

8. Ordering that PaeTec should be fined not less than one thousand, nor more than five thousand dollars for each instance in which PaeTec has engaged in activity to delay or prevent the delivery of telecommunications traffic to Midcontinent end users.

9. Awarding Midcontinent such other and further relief as the Commission deems just and equitable.

Respectfully Submitted this 8th day of February, 2012

DAVENPORT EVANS HURWITZ & SMITH, LLP

By: [signature]

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CERTIFICATE OF SERVICE

The undersigned, one of the attorneys for Complainant, hereby certifies that a true and correct copy of the foregoing "Amended Complaint and Request for Declaratory Order" was served via e-mail upon:

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on this 8th day of February, 2012.

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