

FILE

VENABLE<sup>®</sup> LLP

575 SEVENTH STREET NW WASHINGTON, DC 20004  
T 202.344.4000 F 202.344.8300 www.Venable.com

9

December 3, 2009

**VIA ELECTRONIC FILING**

Betty M. McCauley, Chief of Docketing  
Public Utilities Commission of Ohio  
Docketing Division  
180 East Broad Street, 13th Floor  
Columbus, Ohio 43215-3793

PUCO

2009 DEC -4 PM 2:14

RECEIVED-DOCKETING DIV

**EXPEDITED REVIEW REQUESTED**

Re: Case No. 09-1881-TP-ACO  
McLeodUSA Telecommunications Services, Inc. and US LEC Communications Inc.,  
Motion for Waiver and Expedited Ruling

Dear Ms. McCauley:

US LEC Communications Inc., and McLeodUSA Telecommunications Services, Inc., ("Applicants"), by its undersigned counsel, hereby submit for filing a Motion for Waiver and Expedited Ruling ("Motion"). As discussed in the Motion, Applicants intend to undertake a change in corporate form and a *pro forma* reorganization. To fully realize the benefits of the reorganization, the Applicants therefore respectfully request expedited consideration and grant of the Motion and the pending application as soon as possible, but **no later than December 31, 2009.**

Should you have any questions regarding this matter, please do not hesitate to contact the undersigned at (202) 344-8065.

Respectfully submitted,



Ted L. Ramirez (Ohio Bar No. 0018240)

Tony S. Lee

John D. Van Etten

Enclosure

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.  
Technician AM Date Processed DEC 04 2009

**BEFORE THE PUBLIC UTILITIES COMMISSION  
FOR THE STATE OF OHIO**

In the Matter of Joint Application of )  
 )  
**MCLEODUSA** )  
**TELECOMMUNICATIONS** )  
**SERVICES, INC.** )  
 )  
and )  
 )  
**US LEC COMMUNICATIONS, INC.** )  
 )  
For Approval of Change of Ownership )  
and Change of Name )  
\_\_\_\_\_ )

Case No. 09-1881-TP-ACO

**MOTION FOR WAIVER AND EXPEDITED REVIEW**

McLeodUSA Telecommunications Services, Inc. ("McLeodUSA") and US LEC Communications, Inc. ("US LEC")(collectively, "Applicants"), pursuant to Section 4901:1-6-02(D) of the Ohio Administrative Code, hereby submit this Motion for Waiver in connection with the above-captioned application for a change of ownership and change of name. Additionally, the Applicants hereby request an expedited ruling on this motion and the above-captioned application pursuant to Section 4901-1-12(C) of the Ohio Administrative Code.

Specifically, Applicants request a waiver of the thirty-day approval process provided for by Section 4901:1-6-14(B)(2) of the Ohio Administrative Code. As discussed in the attached memorandum, the Applicants request approval to the extent necessary in order to undertake a *pro-forma* reorganization. The *pro-forma* reorganization must occur prior to December 31, 2009, if the anticipated tax benefits are to be realized. To further this goal, the Applicants are requesting an expedited ruling on this motion, as well as the Application itself.

Good cause exists for granting the requested waiver and the reasons therefor are set forth in the accompanying memorandum in support.

WHEREFORE, the Applicants respectfully request that the Commission grant a waiver of Sections 4901:1-6-14(B)(2) and expedited ruling pursuant to Section 4901-1-12(c) of the Ohio Administrative Code.

Respectfully submitted,



Ted L. Ramirez (Ohio Bar No. 0018240)

Tony S. Lee

John D. Van Etten

VENABLE LLP

575 7th Street, N.W.

Washington, DC 20004

Tel: (202) 344-4000

Fax: (202) 344-8300

E-mail: [tlramirez@venable.com](mailto:tlramirez@venable.com)

[tslee@venable.com](mailto:tslee@venable.com)

[jdvanetten@venable.com](mailto:jdvanetten@venable.com)

December 3, 2009

**BEFORE THE PUBLIC UTILITIES COMMISSION  
FOR THE STATE OF OHIO**

In the Matter of Joint Application of        )  
  )  
**MCLEODUSA**                                        )  
**TELECOMMUNICATIONS**                        )  
**SERVICES, INC.**                                 )  
  )  
and    )  
  )  
**US LEC COMMUNICATIONS, INC.**                )  
  )  
For Approval of Change of Ownership        )  
and Change of Name                            )  
\_\_\_\_\_

Case No. 09-1881-TP-ACO

**MEMORANDUM IN SUPPORT OF MOTION**

On behalf of McLeodUSA Telecommunications Services, Inc. ("McLeodUSA") and US LEC Communications Inc., ("US LEC") (together, the "Parties" ), this memorandum is submitted to the Public Utilities Commission of Ohio (the "Commission") in support of the Motion for Waiver and Expedited Review (the "Motion"). The Motion was filed in connection with an application for change of ownership and change of name (the "Application"), for the Parties to undertake a change in corporate form, name change, and *pro forma* reorganization. As further detailed below, the Parties intend to change their corporate forms by converting to limited liability companies. After the conversion, McLeodUSA will operate under the name McLeodUSA Telecommunications Services, LLC, and US LEC will operate under the name US LEC Communications LLC. Furthermore, the Parties will participate in a *pro forma* intracorporate reorganization. The reorganization will not change the ultimate ownership or control of the Parties' operations, or their corporate directors, officers, or managers, or their service offerings and pricing – other than those done in the normal course of business. In all

respects, the change in corporate form and *pro forma* reorganization will be transparent to the public. For the reasons stated herein, good cause exists to waive the thirty-day approval process in this case and expedite the ruling on the Motion and Application.

### **I. Background.**

By way of background, McLeodUSA and US LEC are wholly-owned indirect subsidiaries of PAETEC Holding Corp ("PAETEC Holding"). PAETEC Holding is a publicly traded Delaware corporation (NASDAQ GS: PAET) headquartered in Fairport, New York. McLeodUSA is authorized to provide local and interexchange telecommunications services in Ohio pursuant to certification granted in Docket Nos. 99-972-TP-ACE and 99-983-TP-ATR. US LEC provides local and interexchange telecommunications services in Ohio pursuant to authorization grant in Docket No. 90-9096. The companies intend to undertake a change in corporate form whereby the Parties will each convert from an incorporated company to a limited liability company. McLeodUSA will operate under the name McLeodUSA Telecommunications Services, LLC, d/b/a PAETEC Business Services and US LEC will operate under the name US LEC Communications LLC d/b/a PAETEC Business Services. It is important to note that, other than the change in corporate form and the benefits that will accrue therefrom, in all other respects, the Parties will remain unaffected by the conversion to limited liability companies. Indeed, McLeodUSA and US LEC will even retain their respective federal tax identification numbers and their own certifications.

In addition to the changes in corporate form, the company will undertake a *pro forma* corporate reorganization. Currently, McLeodUSA is held by PAETEC Holding through the McLeodUSA Inc. and McLeodUSA Holdings, Inc. subsidiaries. US LEC is held by PAETEC Holding through the US LEC Corp. subsidiary. A diagram of the pre-reorganization structure of

the company showing those entities is attached as Exhibit A. The companies intend to execute a *pro forma* corporate reorganization whereby McLeodUSA and US LEC will become indirect wholly-owned subsidiaries of PAETEC Holding under the PAETEC Corp. and PAETEC Communications, Inc. subsidiaries, rather than through their current intervening parent companies. US LEC will be moved under PAETEC Communications, Inc. by way of the contribution of US LEC Corp.'s stock to PAETEC Communications, Inc. McLeodUSA Inc. will be collapsed into PAETEC Holding Corp., and McLeodUSA Holdings, Inc.'s stock will be contributed to PAETEC Communications, Inc. PAETEC Communications, Inc. is authorized to operate as a reseller of intrastate long distance telecommunications services and competitive local exchange carrier in Ohio pursuant to authorization issued in Docket Nos. 98-1104-CT-ACE and 98-1401-TP-ACE, respectively. There will be no changes whatsoever in the corporate form, name, or manner in which PAETEC Communications, Inc. is held or operated. A diagram of the post-reorganization structure of the company is attached as Exhibit B.

## **II. Good Cause Exists to Allow Notice on Less than Ninety Days.**

Pursuant to Section 4901:1-6-02(D), the Commission may “for good cause shown, waive any requirement, standard, or rule set forth in this chapter or prescribe different practices or procedures to be followed in a case.” Ohio Admin. Code 4901:1-6-02(D). Section 4901:1-6-14(B) requires the Parties to file an application prior to undertaking the above-described reorganization. Ohio Admin. Code 4901:1-6-14(B). The Parties submit that there is good cause to grant the limited waiver requested by the Applicants.

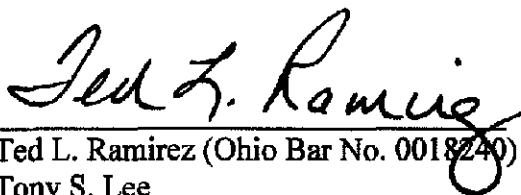
The Parties will realize the substantial tax benefits if the reorganization occurs by December 31, 2009. The cost-savings associated with these tax benefits will enhance the overall

operational efficiency and competitive position of the company, which will ultimately inure to the benefit of the companies' subscribers.

The *pro forma* reorganization will not result in a transfer of control of McLeodUSA or US LEC because the ultimate parent of those companies, i.e., PAETEC Holding, will remain the same. Furthermore, the day-to-day operations of the company will continue to be managed by the same personnel, and the transaction will not affect the Parties' current rates or services. Consequently, the transaction is consistent with the public interest, and will promote competition among telecommunications carriers in the state.

WHEREFORE, for all the foregoing reasons, the Parties respectfully request that the Commission grant the requested waiver of Sections 4901:1-6-14(B)(2) of the Ohio Administrative Code, grant expedited review of this motion and the application, and approve the application to be effective no later than December 31, 2009.

Respectfully submitted,



Ted L. Ramirez (Ohio Bar No. 0018240)

Tony S. Lee

John D. Van Etten

VENABLE LLP

575 7th Street, N.W.

Washington, DC 20004

Tel: (202) 344-4000

Fax: (202) 344-8300

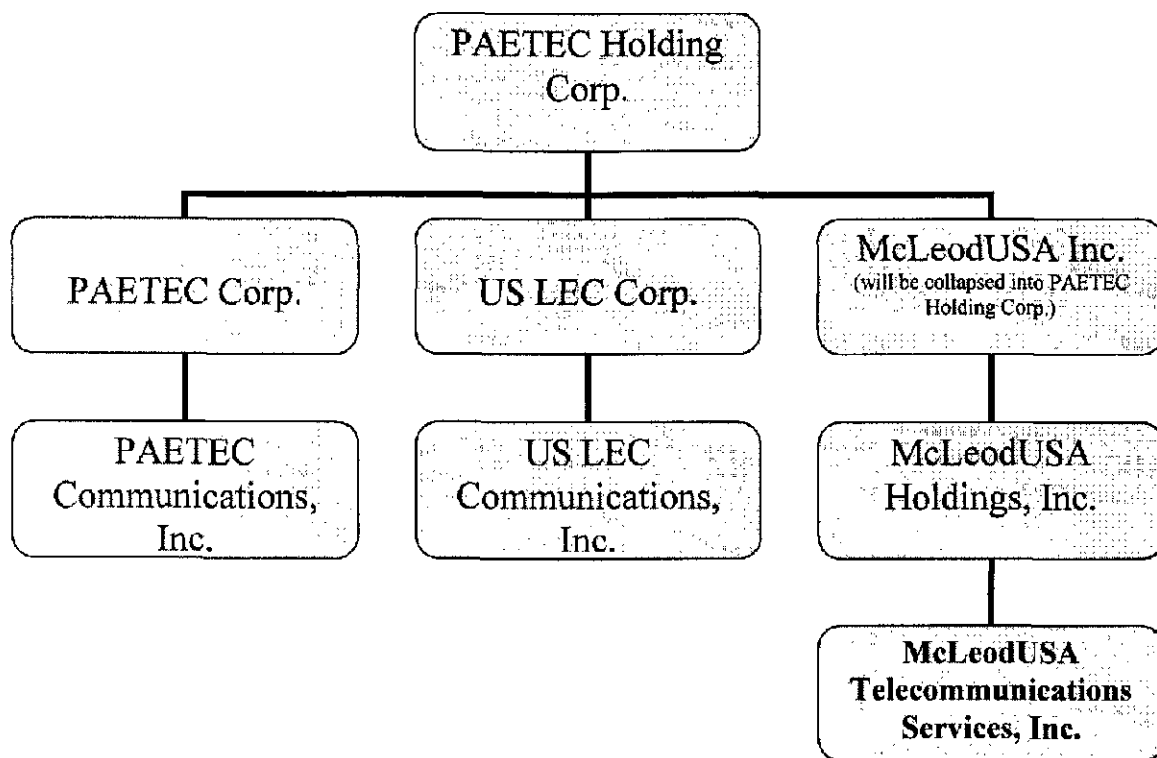
E-mail: [tlramirez@venable.com](mailto:tlramirez@venable.com)

[tslee@venable.com](mailto:tslee@venable.com)

[jvanetten@venable.com](mailto:jvanetten@venable.com)

December 3, 2009

**EXHIBIT A: Pre-Transaction Corporation Structure**





**EXHIBIT B: Post-Transaction Corporation Structure**

