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VIA ECFS

August 16, 2016

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW, Room TW-A325
Washington, DC 20554

Re: Notice of Oral Ex Parte Communications
GN Docket No. 12-268; AU Docket No. 14-252

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Commission's rules, this letter provides notice that Navajo Tribal Utility Authority ("NTUA") board member Jackson Brossy along with counsel Derek A. Dyson and the undersigned met on July 18, 2016, with Edward "Smitty" Smith of Chairman Wheeler's office. In this meeting, we discussed the pending request by Atlantic Tele-Network, Inc. ("ATN") and its subsidiary SAL Spectrum, LLC ("SAL") for a waiver of Section 1.2110(f)(4) of the FCC's rules. We explained the partnership between NTUA and ATN subsidiary Commnet Wireless, LLC ("Commnet") in NTUA Wireless, LLC ("NTUA Wireless"). We discussed the need for SAL to receive the requested waiver and rural bidding credit, as it would directly impact NTUA Wireless' ability to provide service throughout the Navajo Nation. We also discussed NTUA Wireless' work in improving wireless, broadband and internet services within the Navajo Nation over the last four years. We also provided the attached three documents providing an overview of NTUA and NTUA Wireless.

NTUA requests confidential treatment for the information that has been redacted in the attached, which contains commercially sensitive information.[1] The redacted information includes company-specific, confidential and/or proprietary financial and commercial information

[1] This redacted information was erroneously submitted to the Commission in unredacted form on August 11, 2016 and on August 12, 2016 a request was made to make the entirety of the attachments non-public. On August 16, 2016, the undersigned was contacted by an FCC representative and instructed to resubmit a redacted version. The undersigned contacted the ECFS helpline and was instructed to resubmit as a new submittal.

that are protected from disclosure by FOIA exemption 4[1] and the Commission's rules protecting information that is not routinely available for public inspection and that would customarily be guarded from competitors.[2] Consequently, NTUA provides the following additional information pursuant to Rule 0.459:

1. *Identification of the specific information for which confidential treatment is sought.*

   NTUA requests that all of the redacted information contained in the attached be treated as confidential pursuant to Exemption 4 of FOIA and Sections 0.457(d) and 0.459 of the Commission's rules, which protect confidential financial, commercial and other information not routinely available for public inspection. The redacted information concerns the company's customer base and equipment. It is company-specific, competitively-sensitive, business confidential and/or proprietary financial and commercial information concerning NTUA's operations that would not routinely be made available to the public, and has been carefully guarded from competitors. If it were disclosed, NTUA's potential competitors could use it to determine information regarding NTUA's competitive position, operations, and performance, and could use that information to gain a competitive advantage over NTUA.

2. *Identification of the Commission proceeding in which the information was submitted or a description of the circumstance giving rise to the submission.*

   NTUA submitting this information as a Notice of Oral Ex Parte Communications in GN Docket No. 12-268 and AU Docket No. 14-252. A redacted version of the submission is being submitted for inclusion of the record in the Commission's above-referenced docketed proceeding.

3. *Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged.*

   The redacted information contains company-specific, competitively-sensitive, confidential and/or proprietary, commercial and financial information.[3] This information can be used to determine information about NTUA's operations and finances that is sensitive for competitive and other reasons. This information would not customarily be made available to the public in this form and customarily would be guarded from all others, especially potential competitors, that could use the information to enhance their market position at NTUA's expense.

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[1] 5 U.S.C. § 552(b)(4).

[2] 47 C.F.R. §§ 0.457(d) and 0.459.

[3] The Commission has broadly defined commercial information, stating that"'[c]ommercial' is broader than information regarding basic commercial operations, such as sales and profits; it includes information about work performed for the purpose of conducting a business's commercial operations." *Southern Company Request for Waiver of Section 90.629 of the Commission's Rules,* Memorandum Opinion and Order, 14 FCC Rcd 1851, 1860 (1998) (*citing Public Citizen Health Research Group v. FDA*, 704 F.2d 1280, 1290 (D.C. Cir. 1983)).

4. *Explanation of the degree to which the information concerns a service that is subject to competition.*

The confidential information at issue relates to the provision of service subject to vigorous competition from other telecommunications service providers. If the information is not protected, NTUA's competitors and potential competitors will be able to use it to their competitive advantage.

5. *Explanation of how disclosure of the information could result in substantial competitive harm.*

Since this type of information generally would not be subject to public inspection and would customarily be guarded from competitors, the Commission's rules recognize that release of the information is likely to produce competitive harm. Disclosure could cause substantial competitive harm because NTUA's competitors and potential competitors could assess aspects of NTUA's commercial operations and financial position and could use that information to undermine Sprint's competitive position.

6.-7. *Identification of any measures taken by the submitting party to prevent unauthorized disclosure, and identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties.*

The redacted information is not available to the public, and has not otherwise been disclosed previously to the public. NTUA takes precautions to ensure that this information is not released to the general public or obtained by its competitors and potential competitors through other means.

8. *Justification of the period during which the submitting party asserts that the material should not be available for public disclosure.*

NTUA requests that the redacted information be treated as confidential indefinitely, as it is not possible to determine at this time any date certain by which the information could be disclosed without risk of harm.

Respectfully submitted,

Matthew R. Rudolphi
NTUA Counsel