

December 2, 2014

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**Re: Petition for Waiver of Adak Eagle Enterprises, LLC, WC Docket No. 10-90, et al. (May 22, 2012); Petition for Waiver of Windy City Cellular, LLC, WC Docket No. 10-90, et al. (Apr. 3, 2012)**

Dear Ms. Dortch:

This letter is to note for the record that yesterday, the Office of Inspector General (OIG) of the Federal Communications Commission issued a letter<sup>1</sup> notifying Adak Eagle Enterprises (AEE or the Company) of the OIG's intent to conduct an audit separate and apart from – but in connection with – the long-pending (for over 920 days) Petitions for Waiver related to wireline and wireless service for Adak Island, Alaska.<sup>2</sup> OIG has requested that AEE produce, **within 14 days**, a staggering amount of information covering a five-year period: **“all of AEE’s financial transactions, for all of its entities, for the period covering calendar year 2010 until present.”**<sup>3</sup> AEE will again shift resources to work quickly in order to produce comprehensive information in the requested timeframe - as it has in response to dozens of other questions resulting in thousands of pages of documentation produced to staff over the course of the waiver evaluation. However, AEE takes this opportunity to express that it seems inappropriate to be required to supply five years worth of additional financial information in the context of an “audit” by OIG for the purpose of evaluating the responses to staff questions regarding future cost projections and related allocations.

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<sup>1</sup> Letter from Darrell Riegel, Assistant Inspector General for Audits, Office of Inspector General, Federal Communications Commission, to Larry Mayes, President and CEO, Adak Eagle Enterprises, LLC (Dec. 1, 2014)(Audit Announcement Letter).

<sup>2</sup> Petition for Waiver of Adak Eagle Enterprises, LLC, WC Docket No. 10-90, *et al.* (May 22, 2012)(Waiver Petition); Petition for Waiver of Windy City Cellular, LLC, WC Docket No. 10-90, *et al.* (Apr. 3, 2012) (Waiver Petitions).

<sup>3</sup> Audit Announcement Letter at 2.

The waiver process outlined by the Commission in the USF Transformation Order does not appear to contemplate a separate cycle of OIG auditing to evaluate waiver requests.<sup>4</sup>

Specifically, the Audit Announcement Letter states that the purpose of the audit is to:

determine (1) the appropriateness of AEE's past and projected allocations of corporate expenses between its regulated and non-regulated entities, (2) whether AEE's related party transactions were in compliance with FCC regulations and resulted in appropriate cost reimbursements by the USF, and (3) whether AEE's representations made to the FCC during the course of its waiver petition process were materially accurate.<sup>5</sup>

As of today, the Waiver Petitions have been pending at the Commission for more than 920 days. Over the course of that time, AEE has worked diligently to be responsive to all of the Commission's many requests for detailed information. The Company has supplied thousands of pages of documents (sometimes recreating documents from scratch to satisfy FCC staff requests relating to document format), met with Commission staff on numerous occasions, and spent significant time, effort, and resources (including hiring consultants to rapidly gather comprehensive responses) to ensure that the Company provides the Commission everything staff requests for evaluating the waiver applications. AEE has even expended significant time and resources to update information previously provided, with updates most likely required due to the sheer length of time that had passed since the AEE first responded to some of the same questions.

Now, rather than the same FCC staff asking additional rounds of questions, it is OIG staff requiring the Company to produce even more information in connection with the waiver request.

The Company is already in the process of gathering this information. AEE notes that its cost allocations are done pursuant to standard accounting methodology and are regularly reviewed through audits and by the State of Alaska. The *projected* allocations of costs under different financial scenarios were submitted to FCC staff by the Company at the request of staff, and are based on estimates and predictions pursuant to certain assumptions related to *projected financials*. As with any company, those factors change regularly. Small companies like AEE located in hard-to-serve areas such as Adak, Alaska, are even more susceptible to the vagaries of business operations impacting financial projections, which are in turn impacted by energy costs, cost of transportation, extreme weather, natural disasters like earthquakes, and even regulatory uncertainty (for example, projects

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<sup>4</sup> See *Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform -- Mobility Fund*, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 at Section VII(G)(2011)(USF Transformation Order).

<sup>5</sup> Audit Announcement Letter at 1.

that would save AEE money over the long term are on hold as the FCC continues its evaluation process).

As a result, the Company's projected costs and related cost allocations will continue to fluctuate going forward as they have continued to change over the last few years. This does not, however, indicate that the Company's projections are inappropriate (see part 1 of the OIG's request above), or that the Company is somehow noncompliant with the FCC's regulations (see part 2 of the OIG's request), or that the Company has made "materially inaccurate" statements to the Commission (see part 3 of the OIG's request). Any suggestions to that effect are highly disappointing given the level of cooperation the Company has continued to exhibit despite the prolonged and seemingly endless process.

As the Commission is aware, neither Windy City Cellular nor Adak Telephone Utility can survive absent a waiver. The waiver process has been stressful, expensive, and resource intensive. Yet again, AEE will work day and night to provide responses to additional questions – this time, to pull together the additional five years of information now requested by the OIG.

The Company hopes that the Commission will ultimately recognize that AEE – through Windy City Cellular and Adak Telephone Utility – embodies the very purpose of universal service. The Company does not "game" the system by collecting support for multiple lines per customer. Instead, the Company works tirelessly to reinvest in the Adak community by maintaining essential services – including the only reliable 911 service, the only broadband service, the only wireline service, and the most comprehensive wireless service. With interim relief set to expire soon, the companies will be forced to begin the process of shutting down in January unless the Commission corrects course. Without action – or at least another extension while this new batch of information is evaluated – the FCC will have eliminated critical communications to remote Adak Island.

Respectfully submitted,



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