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WASHINGTON, DC

March 19, 2015

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

Re: **WC Docket No. 10-90**
WC Docket No. 14-259
Notice of Oral Ex Parte Presentation

Dear Ms. Dortch:

On March 17, 2015, Jack Koo and Jeff Kohler, senior executives with Skybeam, LLC (“Skybeam”), and undersigned counsel to Skybeam, met by telephone with Alex Minard, Heidi Lankau and Ian Forbes of the Commission’s Wireline Competition Bureau (“Bureau”) to discuss issues related to the above-referenced proceedings. In particular, the participants discussed the impact that the Commission’s existing requirements for stand-by letters of credit (“LOC”) for the rural broadband experiment program would have on rural broadband experiment applicants and the potential impact such requirements, if applied to Connect America Fund (“CAF”) Phase II competitive bidding process, would have on potential bidders.

In the *Rural Broadband Experiments Order*,¹ the Commission required rural broadband experiment program applicants to obtain LOCs for each project for which they were selected. The Commission concluded that the amount of the LOC must be sufficient to cover the entire amount of all funds disbursed to the recipient, an amount that would escalate over time as funds are paid by the Commission to the funding recipient.² In addition, the recipient must have a valid LOC in place for the entire ten-year funding term, even if buildout is completed well before that time. On January 27, 2015, the Alliance of Rural Broadband Applicants (“Alliance”), which includes Skybeam, petitioned for waiver of the LOC requirements to reduce the amount of the LOC to 50 percent of its value and to reduce the duration of the LOC to a maximum of five years.³ On January 30, 2015, the Bureau requested comment on the Alliance waiver petition and

¹ *Connect America Fund, ETC Annual Reports and Certifications*, 29 FCC Rcd 8769 (2014) (“*Rural Broadband Experiments Order*”).

² See *id.* at ¶ 62.

³ Alliance of Rural Broadband Applicants Petition for Waiver, WC Docket Nos. 10-90 and 14-58 (filed Jan. 27, 2015). No party opposes the Alliance’s waiver petition.



also invited comment on whether to apply the Alliance's proposals to the CAF Phase II competitive bidding process.⁴

The Bureau has provisionally selected Skybeam to receive almost \$20 million in rural broadband experiment funding.⁵ Since being selected, Skybeam has submitted all required documentation to the Commission in a timely manner. In its phone conference with Bureau staff, Mr. Kohler reiterated Skybeam's interest in moving forward with its projects expeditiously so it can bring fixed broadband services to unserved locations in rural areas of the country.

Mr. Koo explained to Bureau staff that the existing LOC requirements would place a substantial hardship on Skybeam and its parent JAB Wireless, Inc. ("JAB"), by impeding JAB's ability to finance company operations. He indicated that, through JAB's existing credit facility, the LOC is considered to be funded debt, which means that it is treated as if the amount was funded by a third party and spent such that it counts against JAB's borrowing capacity. In addition, the LOC carries a 3.75 percent annual fee. Mr. Koo stated that, over the course of a ten-year LOC term with an escalating obligation as support is received, JAB's borrowing capacity is significantly diminished. At the end of the ten-year LOC term, JAB will have paid \$5.1 million in bank fees and will have nearly \$20 million in funded debt that cannot otherwise be utilized for network expansion, equipment replacement, acquisitions and other investments that would enhance consumer access to fixed broadband service. In each year that the LOC accumulates, the funded debt is offset by only a single year of the company's cash flow. This creates significant debt leverage and constrains the company's borrowing capability well beyond the amount of the LOC and the funding itself.

Messrs. Koo and Kohler reiterated Skybeam's support for the waiver relief requested by the Alliance. They explained that reducing the amount and duration of the LOC would make it easier for JAB to borrow money because a lesser amount would be treated as funded debt for a shorter period of time. The Skybeam representatives also urged the Bureau to consider adopting less burdensome LOC rules for CAF Phase II competitive bidding.

⁴ See *Public Notice*, "Wireline Competition Bureau Seeks Comment on the Alliance of Rural Broadband Applicants' Petition for Limited Waiver of Certain Rural Broadband Experiment Letter of Credit Requirements; Also Seeks Comment More Generally on Letter of Credit Proposals for Connect America Phase II Competitive Bidding Process," WC Docket No. 10-90 and 14-259, DA 15-140 (rel. Jan. 30, 2015).

⁵ See *Public Notice*, "Wireline Competition Bureau Announces Entities Provisionally Selected for Rural Broadband Experiments; Sets Deadlines for Submission of Additional Information," WC Docket No. 10-90, DA 14-1772 (rel. Dec. 5, 2014) (\$8,839,194 in support for seven projects); *Public Notice*, "Wireline Competition Bureau Announces Additional Provisionally Selected Bidders for Rural Broadband Experiments and Sets Deadlines for Submission of Additional Information," WC Docket Nos. 10-90 and 14-259, DA 15-288 (rel. March 4, 2015) (\$11,012,274 in support for four additional projects).

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Pursuant to Section 1.1206 of the Commission's Rules, this letter is being filed electronically via the Electronic Comment Filing System in the above-captioned proceedings.

Respectfully submitted,



Stephen E. Coran

cc: Alex Minard
Heidi Lankau
Ian Forbes