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EX PARTE PRESENTATION

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: Sandwich Isles Communications, Inc., Petition for Declaratory
Ruling, WC Docket No. 09-133

Dear Ms. Dortch:

On May 5, 2015, Regina McNeil and Robert Deegan of the National Exchange Carrier Association ("NECA") and I met in the above-captioned matter with Daniel Alvarez, Legal Advisor to Chairman Wheeler, Victoria Goldberg, Michael Jacobs, Pamela Arluk (by phone), Doug Slotten, and Thomas Parisi of the Wireline Competition Bureau ("Bureau") all of the Federal Communications Commission ("FCC").

In 2010 the Bureau issued a Declaratory Ruling that required "NECA to recognize 50 percent of Sandwich Isles' Paniolo cable network lease expenses subject to dispute in its revenue requirement for ratemaking purposes." *Sandwich Isles Communications, Inc.*, 25 FCC Rcd. 13647, ¶ 29 (WCB 2010), pet. for recon. and app. for rev. pending ("Declaratory Ruling" or "Ruling"). NECA has implemented this Ruling in accordance with its understanding of the Ruling's terms.

On February 6, 2015, NECA filed a Petition for Clarification/Declaratory Ruling to determine whether it should reflect in its special access revenue requirement 50 percent of the "disputed lease costs" for Sandwich Isles (SIC) undersea cable costs that SIC is not actually paying. There was no discussion in the *Declaratory Ruling* about whether the Commission expected SIC to actually pay the lease expenses, but NECA believes that actual payment was assumed. NECA believes that the *Declaratory Ruling* intended to grant only the special 50 percent accommodation based on actual lease payments: several references in the *Ruling* discuss the need to permit SIC to "recover" its expenses and to recognize SIC's "investment." Without actual payment, there is nothing to recover and SIC has made no investment. FCC rules define "costs" as actually paid items. The *Ruling* bases the allowance on lease expenses, which probably refers to either costs or expenses, the terms costs and expenses are used interchangeably in the *Declaratory Ruling*. GAAP recognizes

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that accrued liabilities may be treated as current expenses, but they must be actually paid during the business cycle. The substance of this presentation is more fully set out in NECA's February 6, 2015, Petition, at pages 4-10, and NECA's March 27, 2015 Reply, pages 2-10, both filed in the above-captioned docket.

SIC ceased making full lease payments in 2012. Because NECA trues up data on a rolling 24-month basis, for each month that goes by NECA's special access revenue requirement continues to reflect lease expenses based on SIC's "lease expense" accounting entry rather than actual payment. In response to questions, NECA indicated that the need to resolve these issue takes on added urgency when considering the criminal indictment of Albert S.N. Hee, a principal officer of SIC and its parent at relevant times at issue in this proceeding.

NECA requests that the Commission, or the Bureau on delegated authority, promptly issue an Order instructing NECA as to the proper way to interpret and implement the 2010 *Declaratory Ruling*, including opening the 24-month period if necessary to properly reflect FCC policy choices. Although the SIC filed a petition for reconsideration and AT&T filed an application for review of the 2010 Declaratory Ruling, which remain pending, NECA only asked in the meeting for a prompt resolution of it 2015 Petition.

Pursuant to 47 C.F.R. § 1.1206, please include this ex parte filing in the above-referenced docket.

Sincerely,

/s/ Gregory J. Vogt

Gregory J. Vogt
Counsel for National Exchange Carrier Association, Inc.

cc: Daniel Alvarez
Victoria Goldberg
Michael Jacobs
Pamela Arluk
Doug Slotten
Thomas Parisi