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April 20, 2016

**Via ECFS**

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

**Re: 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  
Emery Telcom Petition for Limited Waiver of 47 C.F.R. § 51.917(c)(ii)**

Dear Ms. Dortch:

On April 18, 2016, Emery Telcom (Emery) met with Stephanie Weiner, Senior Legal Advisor to Chairman Wheeler, and Matthew DelNero, Deena Shetler, Lynne Engledow and, by phone, Douglas Slotten of the Wireline Competition Bureau, to discuss the waiver filed by Emery in the above-referenced proceeding. Emery also met separately with Rebekah Goodheart, Legal Advisor to Commissioner Clyburn. On April 19, 2016, Emery met with Amy Bender, Legal Advisor to Commissioner O'Rielly. Brock Johansen, Chief Executive Officer and the undersigned participated in the meetings for Emery.

In the meetings, Emery discussed the basis for its waiver, filed on October 25, 2012, in which Emery asks the Commission to waive Section 51.917(c)(ii) of the Commission's rules to permit Emery to include within its Base Period Revenues amounts received after March 31, 2012 for Transitional Intrastate Access Service provided in Fiscal Year 2011 (FY2011) and the impact of the waiver on the company, as detailed in the petition and in Emery's previous *ex parte* filings.

Emery explained that special circumstances warrant a deviation from the general rule in this case and such deviation will serve the public interest because the traffic in question

appeared as phantom traffic as the calls did not contain carrier identification information (CICs or OCNs) in the call detail records; the intrastate switched access minutes in question were billed in 2011; the payment for all of the traffic was due by January 2012, and one of the interexchange carriers paid the charges by the due date; 100% of the charges for all of the traffic ultimately were paid by the interexchange carriers; and none of the charges were disputed.

Emery also explained that because it was not allowed to include all 2011 revenues in its Base Period Revenue amount, Emery was precluded from assessing the ARC that it otherwise would have been allowed to assess via its access tariff effective July 2014 and 2015. Further, without a waiver, Emery's ability to recover revenue shortfalls through the CAF was impacted beginning in Tariff Year 2015-2016. Mr. Johansen explained that the revenue shortfall has caused Emery to reduce its capital budget and fiber investment.

Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS. If you have any questions, please do not hesitate to contact the undersigned.

Respectfully submitted,

/s/ Mary J. Sisak

cc: Stephanie Weiner  
Rebekah Goodheart  
Amy Bender  
Matthew DelNero  
Deena Shetler  
Lynne Engledow  
Douglas Slotten