Greenberg Traurig

Mitchell F. Brecher
(202) 331-3152
BrecherM@gtlaw.com

June 11, 2008

VIA ELECTRONIC FILING

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

RE: CC Docket No. 8-286 Petition of Gila River Telecommunications, Inc. Pursuant to 47 C.F.R. Sections 36.3, 36.123-126, 36.152-157, and 36.372-382 for Commission Approval to Unfreeze Part 36 Category Relationships
CC Docket No. 96-45 Petition of Gila River Telecommunications, Inc. for Waiver of Section 54.209 of the Commission's Rules and Protective Petitions for Waiver of Section 54.209
NOTICE OF EX PARTE PRESENTATION

Dear Ms. Dortch:

On June 11, 2008, Michael Scully, General Manager and Chief Executive Officer, Gila River Telecommunications, Inc. (GRTI), Cecil Antone, a member of the board of directors of GRTI, Doug Kitch of Alexicon Telecommunications Consulting, and I met with Amy Bender, Acting Legal Advisor, Wireline Issues, to Chairman Kevin J. Martin.

During the meeting, we discussed GRTI's pending petitions for waiver of the Part 36 separations category relationships and its pending petitions for waiver of Section 54.209 of the Commission's rules with respect to its October 2006 and October 2007 reports. We reiterated points which have been made in prior filings in the respective docketed proceedings and explained the adverse impact that continued delay in acting on these waivers is having on GRTI's financial condition in general and its cash flow position in particular. We provided Ms. Bender with a summary of those points, a copy of which is attached to this letter.

Pursuant to Section 1.1206 of the Commission's rules, this letter is being filed electronically. Please direct any questions regarding this presentation to undersigned counsel for GRTI.

Sincerely,

Mitchell F. Brecher

Attachment

cc: Ms. Amy Bender
Mr. Michael Scully
Mr. Cecil Antone
Mr. Doug Kitch

PRESENTATION OF
GILA RIVER TELECOMMUNICATIONS, INC.
PENDING REQUEST FOR WAIVER OF PART 36 SEPARATIONS RULES
PENDING REQUEST FOR WAIVER OF SECTION 54.209 DATA REPORTS
JUNE 11, 2008

1. **Who is Gila River Telecommunications, Inc.?**

- A telecom company (ILEC) purchased by the Gila River Indian Community in 1989 from U S West. At time of purchase, the company served about 500 access lines (10% penetration rate)
- Serves about 3,500 access lines in the tribal community located in Arizona (70% penetration rate), most of which did not have telecom service prior to GRTI taking over the company.
- A very high cost carrier -- loop costs about 506% of the national average, and the company is reliant on NECA settlements and Universal Service Fund high cost support.
- Most of tribal residents are low income, and benefit from the availability of Lifeline and Link-Up programs.

2. **The Part 36 Petition**

- In 2001, the FCC adopted an order in the Jurisdictional Separations docket (Docket No. 80-286) which froze separations category relationships and allocation factors until the earlier of June 30, 2006 or until comprehensive separations reform is completed. Rate of return carriers were given an option whether to freeze both. GRTI elected to freeze category relationships on the premise that it would be a short-term decision (it is not); and for purposes of administrative simplicity.
- Because of this election, GRTI has been unable to recover much of the costs of its network upgrades which have enabled it to expand service to the community, including advanced services such as DSL Internet access.
- In November 2006, GRTI petitioned for waiver to allow it to unfreeze the separations category relationships (because of a misunderstanding, it refiled its waiver request in August 2007).
- Impact - Waiver will generate approximately $1.2 million per year in additional -- and needed -- high cost support for GRTI -- a substantial amount for GRTI, but a *de minimis* amount for the Universal Service Fund.
- Reason for this anomalous and unanticipated result is that GRTI has significantly modified its network through increased use of circuit equipment rather than switches which, but for the category freeze, would be treated as loop plant rather than switching equipment.
- GRTI has met with the Wireline Competition Bureau in August 2007 and with the Chairman's office on March 11, 2008; and via conf. call with the Bureau later in March. It has answered all questions and provided all requested data.
- GRTI's petition -- which was supported by the National Telecommunications Cooperative Association and the Organization for the Promotion and Advancement of Small Telecommunications Companies, and not opposed by anyone -- remains pending.

3. The Section 54.209 Waiver

- Section 54.209 of the Commission's rules imposes special data filing requirements on those Eligible Telecommunications Carriers (ETCs) who receive their ETC designation from the FCC rather than from state commissions. That data must be filed by October 1 of each year. The first 54.209 reports were due October 2, 2006.
- As a tribal company, GRTI is not subject to the jurisdiction of the Arizona Corporation Commission. Therefore it was designated as an ETC by the FCC in 1998.
- On October 10, 2007, GRTI received a notice from USAC that it had not made its October 1 filing and that it would not receive first quarter 2008 high cost support unless the FCC granted a waiver.
- GRTI filed its report on October 18, 2007 and petitioned for waiver on October 26, 2007.
- The waiver request remains pending and USAC --as it threatened to do -- has withheld first quarter 2008 high cost support.
- On January 31, 2008, GRTI received another notice from USAC that it had not filed its October **2006** report. Since GRTI already had received high cost support for 2007, the USAC notice did not threaten to withhold (already paid) 2007 support but did threaten GRTI's continued designation as an ETC. GRTI filed a protective petition for waiver with respect to the 2006 report on February 8, 2008 as well as the data for 2006.
- Prior to the October 10, 2007 USAC notice (long after the 2006 reports were due), GRTI did not know that it was required by section 54.209 to file reports.
- In both cases, GRTI acted quickly to submit the required data and to request waiver.
- GRTI also has established a compliance plan to make sure that 54.209 reports and all other regulatory requirements are met in a timely manner. The compliance plan includes the following components:
    - A company employee who reports directly to the CEO has been assigned responsibility for all regulatory filings, and maintains a calendar of all required filings;
    - All questions regarding applicable requirements are referred immediately to outside legal counsel and regulatory consultants;
    - GRTI has implemented a Zero Tolerance Policy. Any employee responsible for violation of an applicable regulatory requirement will be subject to disciplinary action.
- As a small, rural, tribally-owned company which serves a high cost low density community, GRTI is reliant on timely receipt of Universal Service Fund support. Withholding of support due to a technical and unintentional violation of a data filing requirement has adversely impacted GRTI's cash flow and impeded its efforts to continue to expand penetration and introduce advanced services to the Gila River Indian Community.