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June 19, 2008

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

**Re: WC Docket No. 05-337; CC Docket No. 96-45
Notice of *Ex Parte* Presentation**

Dear Ms. Dortch:

On June 17, 2008, John Kuykendall of John Staurulakis, Inc. (“JSI”) met via telephone conference with Nicholas Alexander, Acting Deputy Division Chief of the Telecommunications Access Policy Division of the Wireline Competition Bureau (“Bureau”), regarding questions raised in an e-mail sent by JSI to the Bureau regarding the Commission’s *CETC Cap Order*.¹ The following are the questions posed in the e-mail and in the telephone discussion and the responses provided by Mr. Alexander:

Question No. 1 - In paragraph 31 of the *CETC Cap Order*, citation is made to paragraphs 9-10 of the *Alltel-Atlantis Order* in footnote 94.² In reviewing the *Alltel-Atlantis Order*, it appears that the relevant paragraphs are paragraphs 10-11. Is this correct? In other words, is the process for Alltel to file its own cost data set forth in paragraph 11 of the *Alltel-Atlantis Order* the process that is being referenced in paragraph 31 of the *CETC Cap Order*? **Response:** Yes

Explanation - In paragraph 9 of the *ALLTEL-Atlantis Order*, the Commission imposed an interim cap on high-cost competitive eligible telecommunications carrier (“CETC”) support provided to ALLTEL as a condition of the transaction between ALLTEL Corporation (“ALLTEL”) and Atlantis Holdings, LLC. In paragraph 10, the Commission adopted a limited exception from the

¹ See *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service; Alltel Communications, Inc. et al. Petitions for Designation as Eligible Telecommunications Carriers; RCC Minnesota, Inc. and RCC Atlantic, Inc. New Hampshire ETC Designation Amendment*, WC Docket No. 05-337, CC Docket No. 96-45, Order, FCC 08-122 (rel. May 1, 2008) (“*CETC Cap Order*”).

² See *CETC Cap Order* at para. 31 n. 94 citing *Applications of ALLTEL Corporation, Transferor, and Atlantis Holdings LLC, Transferee For Consent to Transfer Control of Licenses, Leases and Authorizations*, WT Docket No. 07-185, Memorandum Opinion and Order, 22 FCC Rcd 19517, 19521, paras. 9-10 (2007) (*ALLTEL-Atlantis Order*).

application of the interim cap condition to ALLTEL.³ In paragraph 11, the Commission explained the steps ALLTEL must take if it were to take advantage of this limited exception and file its cost data.⁴ In its *CETC Cap Order*, the Commission adopted a limited exception to the imposition of the interim cap imposed in the *CETC Cap Order* that was “consistent with” the limited exception provided for in the *ALLTEL-Atlantis Order* which pertains to the submission of cost data.⁵ However, no similar explanation was provided in the *CETC Cap Order* regarding the steps CETCs must take if they desire to take advantage of the limited exception to the cap imposed in that decision. In the telephone conference, Mr. Alexander confirmed that the steps outlined in paragraph 11 of the *ALLTEL-Atlantis Order* would be the steps which CETCs would take if they plan to avail themselves of the limited exception set forth in the *CETC Cap Order* and filed their own cost data.

Question No. 2 - In stating that "the total annual CETC support for each state will be capped . . .,"⁶ is the Order intended to preclude the interim cap from being applied to CETCs serving US Territories & Possessions? **Response:** No

Question No. 3 - If a CETC files its own costs as envisioned in paragraph 31 of the *CETC Cap Order*, would the CETC continue to receive funds between the time when the CETC files its costs and the time when USAC begins disbursing the funds to the CETC under the cost method and if so, how would the funds be calculated during this period? **Response:** The Bureau will take this question under consideration.

³ The Commission stated, “ALLTEL will not be subject to the interim cap condition to the extent that ALLTEL (1) files its cost data showing its own per-line costs of providing service in a supported service area upon which its high cost universal service support would be based, and (2) demonstrates that its network is in compliance with section 20.18(h) of the Commission’s rules specifying E911 location accuracy as measured at a geographical level defined by the coverage area of each Public Safety Answering Point (PSAP).” *Id.* at para. 10.

⁴ The Commission explained, “ALLTEL must file its cost data with the Commission or the relevant state commission – whichever approves, or subsequently approves, its ETC designation – on an annual basis and line-count data on a quarterly basis. ALLTEL may update its cost data on a quarterly basis, as do rural incumbents today. Only if the cost data is approved by the relevant state commission or the Commission may ALLTEL then file the cost data submission with the Universal Service Administrative Company (USAC); ALLTEL’s high cost universal service support would then be determined by USAC by applying the same benchmarks that are applied to an incumbent LEC’s costs to determine its support.” *Id.* at para. 11.

⁵ See *CETC Cap Order* at para. 31. In the *CETC Cap Order*, the Commission stated, “[s]pecifically, a competitive ETC will not be subject to the interim cap to the extent that it files cost data demonstrating that its costs meet the support threshold in the same manner as the incumbent LEC.” *Id.* Unlike the *ALLTEL-Atlantis Order*, no second condition was imposed requiring a demonstration that CETC networks are in compliance with the Commission’s E911 rules.

⁶ *CETC Cap Order* at 1.

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Question No. 4 - How will situations be handled when a CETC that was eligible to receive funds during March 2008 did not receive those funds during that period but received them at a later date? For example, if a CETC failed to file a certification or line counts on a timely basis for the period which includes March 2008 and thus the cap for a state was established without including those funds, would the other CETCs in that state receive less support in future periods if the CETC timely files its certifications and line counts in future periods? **Response:** The Bureau will take this question under consideration.

Please contact the undersigned with any questions.

Respectfully submitted,

/s/ John Kuykendall

John Kuykendall

Director – Regulatory Affairs

cc: Nicholas Alexander