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Attorneys at Law

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FILED/ACCEPTED

SEP - 3 2008

Federal Communications Commission
Office of the Secretary

September 3, 2008

Via Hand Delivery and ECFS

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

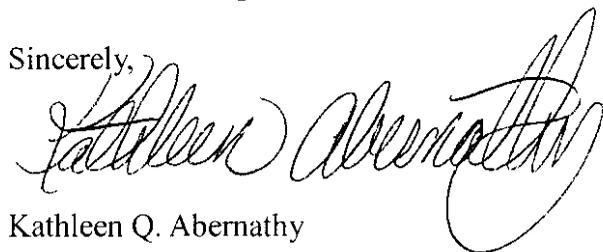
Re: Allegation of *Ex Parte* Rule Violation in WT Docket No. 08-95

Dear Ms. Dortch:

Attached please find a letter addressed to Joel Kaufman, Associate General Counsel, Office of General Counsel. Please direct the attached letter to Mr. Kaufman and stamp and return a copy with our messenger.

Please direct any questions regarding this matter to the undersigned.

Sincerely,



Kathleen Q. Abernathy

cc: Chairman Kevin J. Martin (via hand delivery)
Commissioner Robert McDowell (via hand delivery)
Matthew Berry, General Counsel (via hand delivery)
Renée Crittendon, Office of Commissioner Jonathan Adelstein (via hand delivery)
Wayne Leighton, Office of Commissioner Deborah Taylor Tate (via hand delivery)
Kenneth E. Hardman, Esq. (via U.S. Mail)

Enclosure

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Federal Communications Commission
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Mr. Joel Kaufman
Associate General Counsel
Administrative Law Division
Office of the General Counsel
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Allegation of *Ex Parte* Rule Violation in WT Docket No. 08-95

Dear Mr. Kaufman:

This letter responds to your August 28, 2008 letter regarding an allegation by Kenneth E. Hardman, counsel to Ritter Communications, Inc. and Arkansas Rural Cellular Limited Partnership, that an August 14, 2008 notice (“Notice”) of *ex parte* meetings with Chairman Martin, Commissioner McDowell, Renée Crittendon, Legal Advisor to Commissioner Adelstein, and Wayne Leighton, Legal Advisor to Commissioner Tate, failed to comply with the requirements of the *ex parte* rules of the Federal Communications Commission (“FCC” or “Commission”), 47 C.F.R. § 1.1206(b)(2).¹ Mr. Hardman alleges that the Notice was insufficient because “four of the participants to the meetings are not parties to WT Docket No. 08-95” and that, “[a]t the time of the meetings, there was no information on the record . . . concerning the subject matter of the meetings.”² As more fully discussed below, Mr. Hardman’s concerns are unfounded, and the Notice was fully consistent with the Commission’s rules.

As an initial matter, the Commission’s *ex parte* rules do not limit *ex parte* communications solely to parties to the proceeding in which such communications are made. In

¹ See Letter to Kathleen Q. Abernathy from Joel Kauffman, Associate General Counsel, Administrative Law Division, Office off the General Counsel, Federal Communications Commission (Aug. 18, 2008).

² See Letter to Matthew Berry, General Counsel, Federal Communications Commission from Kenneth E. Hardman (Aug. 20, 2008).

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Mr. Joel Kaufman
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any event, contrary to Mr. Hardman's allegations, all of the participants in the meetings referenced in the Notice are, in fact, parties to WT Docket No. 08-95. Specifically, Joe Gleberman and Gene Frantz are principals of The Goldman Sachs Group, Inc. ("Goldman Sachs") and TPG Capital, L.P. ("TPG"), respectively. TPG and Goldman Sachs each ultimately control and have an attributable ownership interest in Atlantis Holdings, LLC ("Atlantis Holdings"), a fact on record with the Commission.³ Atlantis Holdings, in turn, is the proposed transferee in the above-referenced proceeding. Accordingly, Mr. Gleberman and Mr. Frantz clearly are parties to the proceeding. In addition, Stephanie Johanns is Senior Vice President, Federal Government Affairs, for ALLTEL Corporation ("ALLTEL"), the ultimate parent of the licensees for which approval to transfer control is sought. Thus, it is clear that Ms. Johanns is a party to the proceeding. Finally, Amy Mehlman and the undersigned represent Atlantis and ALLTEL in the proceeding, and thus also are parties to the proceeding.

Not only does Mr. Hardman incorrectly observe that the meetings included individuals that are not parties to WT Docket No. 08-95, he also erroneously asserts that the Notice is flawed because the purpose of the meetings was to discuss matters not yet before the Commission. The *ex parte* rules do not require that *ex parte* communications be limited to reflect information already on the record but rather require a summary of the matters discussed if an oral *ex parte* presentation "presents data or arguments not already reflected in that [party's] written comments, memoranda or other filings in that proceeding"⁴ In this regard, the Notice accurately stated that the purpose of the meetings was "to discuss the market conditions and the change in the availability of financing that led to the decision to sell [ALLTEL] to Verizon Wireless." Notwithstanding Mr. Hardman's contentions, this is, in fact, a summary of the presentations made on August 12, 2008. The discussions centered upon why Atlantis decided to sell ALLTEL and how financial pressures in the current market impacted this decision. The participants also answered questions on these issues raised by the Commission representatives in attendance. Consequently, although Mr. Hardman would like the Commission to believe that the Notice nefariously omitted information about the meetings, the Notice, in fact, correctly and fully describes the discussions.

Finally, Mr. Hardman observes that the Notice was filed on August 14, rather than August 13. Mr. Hardman's clients have not been prejudiced by the inadvertent one-day delay in the

³ See, e.g., Applications of ALLTEL Corporation, Transferor, and Atlantis Holdings, LLC, Transferee, WT Docket No. 07-128, FCC 07-185 (rel. Oct. 26, 2007).

⁴ 47 C.F.R. § 1.1206(b).

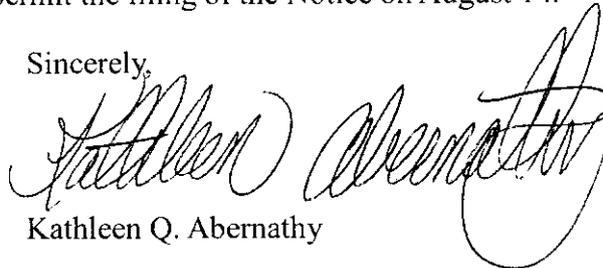
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filing of the Notice. Nevertheless, to the extent necessary, we respectfully request a waiver of Section 1.206(b)(2) of the Commission's rules to permit the filing of the Notice on August 14.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kathleen Q. Abernathy', written in a cursive style. The signature is positioned to the right of the word 'Sincerely,'.

Kathleen Q. Abernathy

cc: Chairman Kevin J. Martin (via hand delivery)
Commissioner Robert McDowell (via hand delivery)
Matthew Berry, General Counsel (via hand delivery)
Renée Crittendon, Office of Commissioner Jonathan Adelstein (via hand delivery)
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