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December 19, 2008

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W., Room TW-B204
Washington, D.C. 20554

Re: Universal Service and Intercarrier Compensation Reform
CC Docket Nos. 96-45, 96-98, 99-68, 99-200, 01-92
WC Docket Nos. 03-109, 04-36, 05-337, 06-122

Madame Secretary:

On behalf of Smith Bagley, Inc. (“SBI”),¹ I write to follow up on our correspondence of November 26, filed in the above-referenced proceedings. In that letter, SBI discussed the Commission’s proposal to exempt Alaska, Hawaii and other insular areas from the effects of comprehensive universal service reform. Specifically, SBI urged the Commission to extend its proposed exemption to tribal lands in the Continental United States. No party registered any opposition to SBI’s proposal.

Should the Commission act on comprehensive universal service reform, SBI reiterates its request that the exemption stated in the *Alternative Proposal* be extended to include tribal lands within the Continental United States. To be clear, SBI’s proposed extension of the exemption to tribal lands takes no position on whether the Commission should extend special treatment to Hawaii and other island territories.

In addition, SBI again asks the Commission to clarify its tribal exemption set forth in its *Interim Cap Order*. Therein, the Commission exempted tribal lands from the interim cap,

¹ SBI is licensed by the Commission to provide cellular service and personal communications service throughout portions of Arizona, New Mexico, Utah, and Colorado. SBI furnishes service and has been designated as an eligible telecommunications carrier (“ETC”) throughout the Navajo Nation, as well as Hopi, White Mountain Apache, Ramah Navajo, and Zuni tribal lands.

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however the language resulted in some confusion and a series of filings by interested parties seeking clarification.

On November 26, 2008, GCI submitted comments suggesting a simple solution to the interim cap problem. We agree with GCI's proposal. The Commission should permit CETCs electing to participate in the exception to receive uncapped support for all lines. The advantages of adopting this proposal is that the Commission would alleviate potentially substantial delays flowing from the need to make changes to applicable reporting forms, and among the various suggested solutions, would be the easiest for carriers to implement.

Accordingly, we ask the Commission to adopt GCI's proposal to eliminate the final clause (shown in strike-through below) of the following sentence from paragraph 33 of the *Interim Cap Order*: "Support for competitive ETCs that do opt in to the limited exception will continue to be provided pursuant to section 54.307 of the Commission's rules, ~~except that the uncapped support is limited to one payment per each residential account.~~"²

Given that the total amount of high-cost support being provided on Native American lands is relatively small, this proposed change will have no measurable effect on the federal universal service contribution factor. Moreover, it will have a substantial and positive benefit for rural tribal lands, which remain far behind the rest of the nation in telecommunications infrastructure. SBI has previously set forth for the Commission the adverse conditions existing on Navajo, Hopi, White Mountain Apache, Zuni, and Ramah lands that require substantial additional investment.

Should you have any questions or require any further information, please contact undersigned counsel directly.

Respectfully submitted,



David A. LaFuria
Counsel for Smith Bagley, Inc.

cc: Hon. Kevin J. Martin
Hon. Michael J. Copps
Hon. Jonathan S. Adelstein
Hon. Deborah Taylor Tate
Hon. Robert M. McDowell

² See GCI Comments filed on November 26, 2008 in the above-referenced dockets at pp. 3-4.

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