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BY ELECTRONIC FILING

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20544

Re: WC Docket No. 09-82 – Notice of Ex Parte Presentation

Dear Ms. Dortch:

Through its counsel, National Rural Utilities Cooperative Finance Corporation (“CFC”), the transferee and purchaser in the above-captioned proceeding, urges the Commission to disregard as irrelevant, untimely, and untrue the allegations made on behalf of Mr. Jeffrey Prosser, the former owner of debtor Innovative Communication Corporation (“New ICC”), by Mr. John Raynor, Mr. Prosser’s longtime counsel and business associate.¹ Throughout the bankruptcies of New ICC, its former parent companies, and Mr. Prosser himself, Mr. Prosser and Mr. Raynor (in his own name, as well as on Mr. Prosser’s behalf) have leveled allegations repeatedly rejected by courts and contractually released by Messrs. Prosser and Raynor against New ICC’s creditors—principally CFC’s affiliate Rural Telephone Finance Cooperative (“RTFC”)—and against Mr. Stan Springel as the Chapter 11 Trustee for the bankruptcy estates of New ICC and its former parent companies, seeking to prolong the bankruptcies, impose expenses on the bankruptcy estates, and diminish the collateral of RTFC, as the senior secured creditor. One hundred and twelve days after the Commission placed this transaction on public notice,² Messrs. Prosser and Raynor have now appeared in this proceeding for the first time to pursue the same sort of action.

¹ Letter from John Raynor, Counsel for Jeffery J. Prosser, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 09-82 (filed Sept. 25, 2009) (“Prosser-Raynor Letter”). Mr. Prosser was previously the owner, officer, and director of New ICC, its predecessor (“ICC”), and its former parent companies and is personally in a Chapter 7 bankruptcy with a trustee appointed over his estate and that of the New ICC and related corporate debtors (at the request of the Department of Justice). In addition to serving as counsel to Mr. Prosser, Mr. Raynor was a director of New ICC, its predecessor ICC, and one of its former parent companies.

² *Chapter 11 Bankruptcy Trustee for Innovative Communication Corp.*, Public Notice, 24 FCC Rcd. 7722 (2009).

WILTSHIRE & GRANNIS LLP

Marlene H. Dortch
Federal Communications Commission
8 October 2009
Page 2

This transaction review, however, is not about Messrs. Prosser or Raynor, their tenure at New ICC, or their historical disputes with RTFC and CFC.³ The allegations in their letter pertain mostly to the period before New ICC's default on RTFC's loans in 2004, long before New ICC entered bankruptcy in September 2007 and long before Messrs. Prosser and Raynor lost their respective interests in and positions with New ICC and associated companies as a consequence of the bankruptcies. Their allegations have also consistently been rejected by a variety of tribunals and conclusively resolved through releases and non-disparagement agreements signed by Messrs. Prosser and Raynor. Finally, Messrs. Prosser and Raynor request no relief or remedy whatsoever from the Commission. The Commission should reject these allegations on timeliness and relevance grounds alone, and otherwise as an abuse of the Commission's transaction review process and a waste of the Commission's resources.

Far from seeking to "bury and discredit" Mr. Prosser,⁴ CFC seeks to recover on its investment in New ICC by taking possession of collateral securing loans on which New ICC defaulted (RTFC holds perfected liens on virtually all of the assets of New ICC's operating subsidiaries and divisions) and to rehabilitate those operating subsidiaries and divisions. With associated interest, those loans now total more than \$500 million. For years, RTFC had worked assiduously with New ICC to reschedule its debt and arrange other relief, but New ICC nevertheless defaulted on its loans in 2004. Following the default, RTFC sued and, with the consent of Mr. Prosser, a federal district court awarded RTFC a \$524 million judgment against New ICC, with Mr. Prosser personally liable for up to \$100 million of that judgment. Mr. Prosser and New ICC have nevertheless failed to satisfy that judgment.⁵

Before RTFC was awarded judgment, Mr. Prosser responded to RTFC's suit with lawsuits of his own in which he made allegations substantially similar to those contained in Prosser-Raynor Letter.⁶ At Mr. Prosser's request, a federal district court dismissed these claims

³ The underlying applications mention Mr. Prosser only in passing. *See* Description of the Proposed Transaction, Public Interest Showing, and Related Requests and Showings filed as Exhibit 1 to the Applications for Assignment and Transfer of Control, WC Docket No. 09-82, at 9 (filed May 19, 2009).

⁴ Prosser-Raynor Letter at 4-5.

⁵ Final Judgment, *RTFC v. ICC* and *RTFC v. Jeffrey Prosser*, Case Nos. 2004-CV-154 and 2004-CV-155 (D.V.I., entered June 9, 2006) (entering judgment in favor of RTFC).

⁶ *See, e.g.*, Counterclaim of J. Prosser, *Rural Telephone Finance Cooperative, et al. v. Jeffrey J. Prosser, John P. Raynor, et al.*, Case No. 2004-CV-132 (D. V.I., filed Feb. 3, 2005); Second Supplemental Counterclaim of New ICC, *Rural Telephone Finance Cooperative v. Innovative Communication Corp.*, Case No. 2004-CV-154 (D. V.I., filed Oct. 4, 2004); Amended Complaint, *Innovative Communication Corp. v. Rural Telephone Finance Cooperative*, Case No. 2005-CV-168 (D. V.I., filed Nov. 11, 2005); Amended Complaint,

WILTSHIRE & GRANNIS LLP

Marlene H. Dortch
Federal Communications Commission
8 October 2009
Page 3

with prejudice,⁷ and he and Mr. Raynor executed contracts in which they agreed to release CFC and RTFC from claims related to those allegations.⁸ After signing those agreements, Messrs. Prosser and Raynor proceeded to re-raise their allegations in bankruptcy court,⁹ a U.S. district court,¹⁰ again in bankruptcy court,¹¹ yet again in bankruptcy court,¹² once again in another

Virgin Islands Telephone Corporation & Innovative Communication Corp. v. National Rural Utilities Cooperative Finance Corp. & Rural Telephone Finance Cooperative et al., Case No. 2006-CV-018 (D. V.I., filed Feb. 23, 2006).

⁷ Order of Dismissal, Case No. 2004-CV-132 (D. V.I., entered June 12, 2006); Order of Dismissal, Case No. 2004-CV-154 (D. V.I., entered June 8, 2006); Order of Dismissal, Case No. 2005-CV-168 (D. V.I., entered June 8, 2006); Order of Dismissal, Case No. 2006-CV-018 (D. V.I., entered June 9, 2006).

⁸ Release in Full, § 1.17 (executed in multiple parts May 2006) (listing litigation released among the parties).

⁹ See Order Granting RTFC's Motion for Protective Order, Case No. 06-30008 (JKF), at 19 (Bankr. V.I., entered Jan. 18, 2007) (forbidding Mr. Prosser from initiating further discovery with respect to these allegations).

¹⁰ Complaint, *Jeffrey J. Prosser & John P. Raynor v. National Rural Utilities Cooperative Finance Corp., Fed. Agricultural Mortgage Corp. & United States Dept. of Agriculture*, Civil Action No. 08-0687 (JR) (D. D.C., filed April 22, 2008); Order Granting CFC's Motion to Dismiss, Civil Action No. 08-0687 (JR) (D. D.C., entered May 30, 2008); Memorandum Opinion and Order Dismissing Civil Action, Civil Action No. 08-0687 (JR) (D. D.C., entered Jan. 14, 2009).

¹¹ See Statements of Judge Judith K. Fitzgerald, Transcript of July 23, 2008 Hearing, Case No. 06-30008 (JKF) and Adv. Proc. No. 07-03010 (JKF), at 30:16-31:8, 31:13-31:20, 33:6-33:10, 34:2-34:11, 35:20-35:24, 37:25-38:6, 43:22-44:2 (Bankr. V.I., entered July 30, 2008); Order on Motion of Rural Telephone Finance Cooperative's Motion for Sanctions, Attorneys' Fees, and Other Appropriate [sic], Case No. 06-30009 (JKF) (Bankr. V.I., entered July 29, 2008).

¹² See Order of Court Striking Response from Docket, Case No. 06-30009 (JKF) (Bankr. V.I., entered Sept. 8, 2008) (striking a motion filed by Mr. Raynor entitled "Resistance to Fulbright Jawaroski's [sic] Virulent Character Assassination in the Motion in Limine" as being "improvidently filed").

WILTSHIRE & GRANNIS LLP

Marlene H. Dortch
Federal Communications Commission
8 October 2009
Page 4

district court,¹³ and now here. Every tribunal that has considered these claims has rejected them.¹⁴

Having already dealt successfully and at length with the allegations of Messrs. Prosser and Raynor in each of these fora, CFC does not believe it necessary to provide a lengthy rebuttal of them here. Rather, CFC would be pleased to provide additional supporting documentation with regard to any of them as the Commission might require.

Respectfully submitted,



Kent Bressie
Brita Strandberg
Michael Nilsson
*Counsel for National Rural Utilities
Cooperative Finance Corporation*

cc: Jim Bird
Neil Dellar
Kathy Harris
David Krech
Jodie May
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Sally Stone
Jeff Tobias

¹³ See Amended Complaint, *Jeffrey J. Prosser & John Raynor, et al. v. National Rural Utilities Cooperative Finance Corp. & Rural Telephone Finance Cooperative, et al.*, Civil No. 2008-107 (D. V.I., filed Feb. 9, 2009).

¹⁴ While the federal district court presiding over Messrs. Prosser and Raynor's latest attempt to raise these allegations has not yet issued its ruling on CFC and RTFC's motion to dismiss that case, on September 30, 2009, it dismissed two of the defendants and indicated that its ruling on CFC and RTFC's motion is forthcoming. See Memorandum Opinion and Order, Civil No. 2008-107 (D. V.I., entered Sept. 30, 2009).