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July 8, 2011

Sharon E. Gillett
Chief, Wireline Competition Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20534

RE: JSI Response to the Ad Hoc Telecommunications Users Committee Response to JSI Objection to the Request for Confidential Information filed in CC Docket No. 01-92; GN Docket No. 09-51; WC Docket Nos. 05-337, 07-135 and 10-90 (Data Related to Universal Service and Intercarrier Compensation Reform)

Dear Ms. Gillett:

On June 27, 2011, pursuant to the Protective Order,¹ John Staurulakis, Inc. (“JSI”) filed a letter² objecting to the Request of the Ad Hoc Telecommunications Users Committee for access to the Data Request Responses containing confidential data filed by JSI on behalf of sixty-three companies in the above-referenced dockets. Subsequently, the Ad Hoc Telecommunications Users Committee filed a letter³ responding to the JSI Objection Letter although the Protective Order does not provide for such a response to be made. JSI does not want to further burden the Commission’s resources as it deliberates on this important matter, yet JSI is compelled to respond to the Ad Hoc Telecommunications Users Committee’s erroneous assertion that the JSI Objection Letter was not timely filed and thus should be dismissed.

In claiming that the JSI Objection Letter should have been filed within three business days, the Ad Hoc Response fails to acknowledge that this provision does not apply when the person seeking access is a legal assistant as such was the case in this situation.

¹ *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *et. al.*, Protective Order, 25 FCC Rcd 13160 (2010) (“Protective Order”).

² Letter from Ken Cartmell, Manager, Regulatory Affairs, John Staurulakis, Inc. to Sharon Gillett, Chief, Wireline Competition Bureau (Jun. 27, 2011) (“JSI Objection Letter”).

³ Letter from Andrew M. Brown, Levine, Blaszak, Block and Boothby, LLC, Counsel for the Ad Hoc Telecommunications Users Committee to Sharon Gillett, Chief Wireline Competition Bureau (July 1, 2011) (“Ad Hoc Response”).

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Paragraph six of the Protective Order states that “[a]ny objection must be filed at the Commission and served on Counsel representing, retaining, or employing such person within three business days after receiving a copy of that person’s Acknowledgement (or where the person seeking access is one described in clause 2, 3, or 4 of paragraph 9, such objection shall be filed and served as promptly as practicable after receipt of the relevant Acknowledgement).”⁴ The individuals that are described in Clause 2 of paragraph 9 are “paralegals or other employees of such Counsel not described in clause 3 of this paragraph assisting Counsel in this proceeding” and the individuals that are described in clause 3 of paragraph 9 are “employees of such Counsel involved solely in one or more aspects of organizing, filing, coding, converting, storing, or retrieving documents or data or designing programs for handling data connected with this proceeding, or performing other clerical or ministerial functions with regard to documents connected with this proceeding.”⁵

As demonstrated in Appendix A to the JSI Opposition Letter, the request for access to the data was made in an e-mail by Ms. Amanda J. Delgado of Levine, Blaszak, Block and Boothby, LLC in which she states that “I am writing to request access to the unredacted version of JSI’s data submission filed with the FCC on May 25, 2011”. According to Ms. Delgado’s Acknowledgment, her title at the law firm is “legal assistant.” As such, Ms. Delgado the person seeking access to the confidential data, would be one that is described either under clauses 2 or under clause 3 of the Protective Order. Accordingly, because the person that was seeking access to the confidential data filed by JSI on behalf of the sixty-three companies was a legal assistant, the timeframe for filing an objection was “as promptly as practicable after receipt of the relevant Acknowledgements.” This was indeed done in that the JSI Objection Letter was filed four business days after receipt of Ms. Delgado’s request for access to the data request responses which was as prompt as practicable given that the sixty-three companies had to be notified of the Ad Hoc Telecommunications Users Committee’s Data Request and provided with an opportunity to review the draft of the JSI Objection Letter prior to filing.⁶

JSI must also take this opportunity to underscore the fact that it will have an incredible chilling effect if the FCC were to decide to allow the Ad Hoc Telecommunications Users Committee to review this confidential information. As explained in the JSI Objection

⁴ See Protective Order at 3, para. 6. (Emphasis Added.)

⁵ Id at 4, para. 9.

⁶ Furthermore, JSI is the cost consultant for the sixty-three companies, and consequently acted as the Submitting Party of all information filed with the FCC in conjunction with this matter. In addition, as the Ad Hoc Response states, the “service” of the Acknowledgments related to their data request was provided in the form of a hyperlink which did not work. So arguably, JSI was never properly served from the outset. I checked the hyperlinks to the Acknowledgments provided in both the Ad Hoc Telecommunications Users Committee’s Data Request and in the Ad Hoc Response again today, and found that those hyperlinks continue to be inoperable. Lastly, the Ad Hoc Response Transmittal Letter indicates that I was one of the parties that were “served via email,” with the Ad Hoc Response, which I did not receive as well.

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Letter, this information was provided to the Commission at the FCC's request in its NPRM on a voluntary basis without any related advocacy purpose. Provision of such confidential data on a voluntary basis at the Commission's request is markedly different than the submission of data in conjunction with filed comments, ex parte presentations, or any other advocacy-related filing. Accordingly, the confidential data should be used exclusively by the FCC for its deliberations and not disclosed to other parties for their advocacy efforts. To allow this to occur would result in fewer companies providing data to the Commission voluntarily in the future. Already, in light of the Ad Hoc Response, other clients of JSI who had planned to file data with the FCC have now decided to wait to learn the outcome of this issue before submitting the requested data. Consequently, the chilling effect that JSI summarized would occur in the JSI Objection Letter is already coming to fruition.

Thank you for your consideration of this matter. Any questions may be directed to me at the address and telephone number listed above, or by email at kcartmell@jsitel.com.

Sincerely,

/s/ Kenneth T. Cartmell

Kenneth T. Cartmell
JSI-Manager-Regulatory Affairs

KTC/tms