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October 19, 2011

## REDACTED VERSION – FOR PUBLIC INSPECTION

### *FILED VIA ECFS<sup>1</sup>*

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, S.W., Room TW-B204  
Washington, D.C. 20554

**Re: *Ex Parte* Notification  
WC Docket No. 05-337; CC Docket No. 96-45;  
GN Docket No. 09-51; WC Docket No. 06-122;  
CC Docket No. 01-92**

Madam Secretary:

In accordance with Section 1.1206 of the Commission's Rules, 47 C.F.R. § 1.1206, we hereby provide you with notice of an *ex parte* presentation made in connection with the above-captioned proceedings.

On Monday, October 17, 2011, Johnie Johnson, President and CEO of Nex-Tech Wireless, LLC ("Nex-Tech Wireless") and Gwendolyn O'Brien Donaldson, President, Donaldson Companies, on behalf of Nex-Tech Wireless, Carolina West Wireless ("Carolina West"), and Cellular One of East Central Illinois ("Cellular One") (Nex-Tech Wireless, Carolina West and Cellular One are collectively referred to as "the Companies"), met with Margaret Wiener, Erik Salovaara, and Melissa Tye of the Wireless Bureau and Thomas Reed and Daniel Margolis of the Office of Communications Business Opportunities to discuss the Commission's proposed universal service reforms. In particular, the Companies discussed the impact of two key proposals: the five-year phase down of USF support to wireless carriers and the imposition of reverse auctions on wireless carriers.

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<sup>1</sup> The confidential version of this *ex parte* filing is being filed separately by hand delivery to the FCC.

The Companies provided information to Commission staff demonstrating that the Commission's proposed five-year phase-down of USF support would severely threaten access to wireless services in rural areas. In that regard, the Companies' representatives demonstrated how the cap on CETC high-cost support and the Commission's proposed phase-down of CETC high-cost support will impair service enhancements in the rural communities served by the Companies. The Companies' representatives also discussed how network costs for the transition to 4G are becoming increasingly unmanageable for smaller wireless carriers.

The Companies' representatives also discussed how reverse auctions would unduly harm small businesses and render no measurable savings in the federal procurement arena. The Companies' representatives described how reverse auctions disproportionately hurt small businesses and proved unsuccessful when used by other federal agencies.

In order to preserve and promote wireless broadband access in rural areas, the Companies' representatives encouraged Commission staff to consider a targeted exemption from future USF reforms for certain carriers and the minimal economic impact that such an exemption would have on the size of the USF.

Representatives for the Companies distributed several documents (hereinafter the "Documents"), all of which were appropriately identified as confidential, setting forth internal business information illustrating the adverse effects that the elimination of universal service support would have on the deployment and ongoing operation of the Companies' cellular facility sites. The representatives for the Companies relied upon the Documents in explaining that certain actions proposed by the Commission in the pending rulemaking proceeding could result in the decommissioning of existing sites operated by the Companies, as well as the reduction in future planned investment and expansion of the Companies' infrastructure.

The Companies have also submitted to the Commission, via an electronic filing, a redacted notice of the October 17 *ex parte* presentation that does not include a copy of the Documents.

The Companies respectfully request confidential treatment of the Documents because information contained in the Documents is competitively sensitive and its disclosure would have a negative competitive impact on the Companies, were it made publicly available. Information in the Documents is subject to protection under Section 0.459 of the Commission's Rules, 47 C.F.R. § 0.459, as demonstrated below.

Information for which confidential treatment is sought

The Companies request that information in the Documents be treated on a confidential basis under Exemption 4 of the Freedom of Information Act (5 U.S.C. § 552(b)(4)). Information designated as confidential relates to the impact of proposed rulemaking actions on the Compa-

nies' ability to deploy and operate certain facilities within their wireless telecommunications networks. The enclosed Documents therefore are marked "**CONFIDENTIAL – NOT FOR PUBLIC INSPECTION.**" Information regarding the anticipated impact of proposed Commission rulemaking actions on the operations of the Companies is competitively sensitive information that the Companies maintain as confidential and is not normally made available to the public. Release of the information would have a substantial negative impact on the Companies since it would provide competitors with commercially sensitive information.

Commission proceeding in which the information was submitted

The information in the Documents was submitted to Commission staff in ex parte meetings in the above-captioned proceeding.

Degree to which the information in question is commercial or financial, or contains a trade secret or is privileged

The information in question is competitively sensitive information and is not normally released to the public, because such release would have a substantial negative competitive impact on the Companies.

Degree to which the information concerns a service that is subject to competition and manner in which disclosure of the information could result in substantial harm

The release of the confidential and proprietary information contained in the Documents would cause the Companies competitive harm by allowing competitors to become aware of sensitive proprietary information regarding the operation of the Companies' business at a level of detail not currently available to the public.

Measures taken by the Companies to prevent unauthorized disclosure and availability of the information to the public and extent of any previous disclosures of the information to third parties

The Companies have treated and continue to treat information in the Documents as confidential and have protected the information from public disclosure to parties outside of the company. Although the information was submitted to Commission staff during the September 26 ex parte meetings, the Documents were appropriately identified as confidential and Commission staff was informed that the Documents would be filed with the Commission by the Companies with an accompanying request for confidential treatment.

Justification of the period during which the Companies assert that the material should not be available for public disclosure

The Companies cannot determine at this time any date on which this information should no longer be considered confidential.

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Other information the Companies believe may be useful in assessing whether its request for confidentiality should be granted

Under applicable Commission decisions, the information in question should be withheld from public disclosure.

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If this request for confidentiality is denied, then it is hereby requested, pursuant to 47 C.F.R. § 0.459(e), that the Commission return to the Companies any and all copies of the Documents without consideration.

If you have any questions or require any additional information, please contact undersigned counsel directly.

Respectfully submitted,

Todd B. Lantor

Robert S. Koppel

*Attorneys for Nex-Tech Wireless, LLC and Carolina West Wireless*

Enclosures (Confidential)

cc (without enclosures): Margaret Wiener  
Erik Salovaara  
Melissa Tye  
Thomas Reed  
Daniel Margolis

**ENCLOSURES**

**ALL REDACTED IN THEIR ENTIRETY**

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