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October 21, 2011

VIA ELECTRONIC FILING

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

Re: Smith Bagley, Inc.
WC Docket No. 10-90, 07-135, 05-337, and 03-109
GN Docket No. 09-51, CC Docket No. 01-92 and 96-45

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 oral ex parte presentation in connection with the above-captioned proceeding. On October 21, 2011 undersigned counsel, on behalf of Smith Bagley, Inc. ("SBI"), spoke via telephone with Zachary Katz to discuss universal service support on tribal lands.

SBI requested the Commission to exempt tribal lands from interim actions, such as phase-downs of support, which can make it very difficult for carriers serving remote tribal lands to access capital markets, meet their loan covenants, keep promises made to state commissions and tribal authorities, and impede their ability to accelerate construction of critical telecommunications infrastructure on tribal lands. Capital invested in telecommunications infrastructure forms the foundation to accelerate 3G and 4G overlays on tribal lands nationwide. Accordingly, actions that accelerate cell site construction will likewise accelerate 3G and 4G availability on tribal lands.

SBI provides the following additional information in support of including an exemption in the upcoming order, as opposed to a process whereby carriers serving tribal lands would have to file waiver requests for an exemption and have them decided on a case-by-case basis. As the Commission has acknowledged many times in over the years, carriers serving remote tribal lands

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face special challenges. The combination of population density, poor demographics, and relatively high costs to build and interconnect networks can be extraordinary. Most recently, the Commission exempted tribal lands from the interim cap on high-cost support in recognition of these challenges.

Accordingly, SBI asks the Commission to categorically exempt any carrier serving tribal lands where the overall population density or other demographic characteristics, such as household or per capita income, fall below the national average. Another clear indication of special need for high-cost support is when the percentage of households eligible for Lifeline rises above 25%. Carriers serving remote tribal lands would simply be required to file a certification that they qualify for exemption. Carriers serving tribal areas that are at or above national averages may still apply for a waiver of the phase down and have them considered on a case-by-case basis.

By drawing a clear line within the order, the Commission will provide critical certainty to carriers serving remote areas, many of whom have been using support to build cell sites, and have plans to continue new cell site construction, provided support remains available. SBI falls into this category, in that its near-term plans to expand service in remote tribal areas will be jeopardized if it is forced to wait many months for a waiver request to be processed. Surely the Commission can draw appropriate lines up front to ensure that the most challenging to serve areas, such as Navajo, White Mountain Apache, Hopi, Zuni and Ramah Navajo, are not subjected to regulatory uncertainty brought on by a case-by-case waiver process.

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

Sincerely,



David A. LaFuria
Counsel for Smith Bagley, Inc.

cc: Zachary Katz, Esq.