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March 6, 2012

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. 05-337 and CC Docket No. 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 March 2, 2012, undersigned counsel, on behalf of Smith Bagley, Inc. ("SBI"), met with Trent Harkrader, Patrick Halley, Amy Bender and Ted Burmeister of the Telecommunications Access Policy Division, Wireline Competition Bureau.

Counsel discussed the Request for Review it filed on July 6, 2010, seeking review of USAC's decision to cap Interstate Access Support paid based on CETC lines qualifying for the Covered Locations exception to the CETC Cap. Counsel noted that the Covered Locations exception requires USAC "to ensure that a competitive ETC receives the same per-line support amount as the incumbent LEC for the lines qualifying for the exception."¹ Counsel explained that as a result of USAC's unauthorized interpretation of the Covered Locations rule, SBI's support has been reduced by more than \$2.6 million going back to the effective date of the CETC Cap.

Counsel also described the need for increased wireless coverage on the five Native American lands that it serves, which is made more pressing by the fact that many households in

¹ *High-Cost Universal Service Support, Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, 23 FCC Rcd. 8834, 8849 (2008) ("*Interim Cap Order*"), *aff'd*, *Rural Cellular Ass'n v. FCC*, 588 F.3d 1095 (D.C. Cir. 2009).

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those areas also lack access to landline telephone service. A grant of SBI's Request for Review will enable SBI to construct cell sites in Tribal areas that are in need of wireless service.

Lastly, counsel noted that the requested relief is limited in nature. According to USAC data, only a handful of ETCs are impacted – i.e., only those CETCs receiving IAS on Tribal lands – and only one other ETC (U.S. Cellular in Oklahoma) is impacted by at least \$10,000 in monthly support. Counsel stated that if SBI's Request for Review is granted, even based on conservative estimates erring on the upside, total support paid retroactively to SBI and other carriers would be less than \$6 million.

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

A copy of materials distributed at the meetings is enclosed for the record.

Sincerely,



David A. LaFuria
Steven M. Chernoff
Counsel for Smith Bagley, Inc.

cc: Trent Harkrader, Esq.
Patrick Halley, Esq.
Amy Bender, Esq.
Theodore Burmeister, Esq.

Enclosure