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Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: **Ex Parte Notice - WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208. Petitions for Waiver – Adak Eagle Enterprises and Windy City Cellular**

Dear Ms. Dortch:

This letter memorializes ex parte communications between the undersigned, counsel to Adak Eagle Enterprises, LLC (“AEE”) and Windy City Cellular, LLC (“WCC”), and Commission staff outlining process concerns related to the Petitions for Waiver filed by each company.¹ On Tuesday, August 21, 2012, the undersigned spoke with Jonathan Chambers (Senior Counselor, Office of Strategic Planning and Policy Analysis). On Wednesday, August 22, 2012, the undersigned spoke separately with Ruth Milkman (Chief, Wireless Telecommunications Bureau) and Julie Veach (Chief, Wireline Competition Bureau). The following is a summary of those discussions.

WCC and AEE, since even before their Petitions were filed in April and May, have made tremendous good faith efforts to provide full information to the Commission. The companies expended substantial time, labor, and financial resources to include in their initial Petitions all of the detailed information required by the *USF/ICC Transformation Order*.² They also expended significant additional resources for Larry Mayes, President and CEO of AEE and WCC, and Andilea Weaver, the companies’ Chief Operations Officer, to travel to Washington, D.C. from Alaska twice to meet with Commission staff for the purpose of providing information, answering

¹ See Petition for Waiver of Adak Eagle Enterprises, LLC, WC Docket No. 10-90, *et al.*, filed May 22, 2012; Petition for Waiver of Windy City Cellular, LLC, WC Docket No. 10-90, *et al.*, filed April 3, 2012.

² See *Connect America Fund et al.*, WC Docket No. 10-90 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, 26 FCC Rcd 17663, Section G (2011) (“*USF/ICC Transformation Order*”).

questions, and explaining the information submitted in support of their Petitions.³ Since filing their Petitions, AEE and WCC have filed additional information, and through their counsel, have regularly contacted Commission staff to check to see if any more additional information might be needed from either company and to volunteer their assistance in answering any questions the staff might have. WCC and AEE repeatedly stated that they stood ready to provide whatever information staff wanted, but emphasized that time is a critical factor for them, and that any delay in a decision regarding relief would likely have a significant detrimental impact on their operations.

Despite these substantial and steady efforts to provide information and to ascertain whether additional information would be helpful (and that have been ongoing since March), staff requested, for the first time, a large set of new information during a conference call on Friday, August 17. It is taking AEE and WCC significant time and resources to respond to the numerous questions raised by staff. While the companies do not object to the new requests for information, it is distressing that these questions were raised for the first time only 11 days before a decision on AEE's Petition was anticipated pursuant to the Commission's 90-day timeframe for such decisions.⁴

Following the Friday afternoon conference call, Ms. Weaver worked late into the evening and all weekend to compile, scan, and email hundreds of pages of documents in response to the staff's questions as quickly as possible. Over the course of the last several days, AEE and WCC staff have prioritized the Commission's new requests, and diverted resources to pull and review voluminous amounts of documents dating back to 2005. AEE and WCC have been steadily providing information in separate filings on Monday, August 20, Tuesday, August 21, and Wednesday, August 22. AEE and WCC have informed staff that the remaining information requested will be filed as soon as possible this week.⁵

³ See Letter from Monica Desai, Counsel, Windy City Cellular, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, Notice of Ex Parte, WC Docket No. 10-90, *et al.*, dated April 6, 2012 (memorializing April 4, 2012 meetings with Commission staff); Letter from Monica Desai, Counsel, Windy City Cellular, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, Notice of Ex Parte, WC Docket No. 10-90, *et al.*, dated April 9, 2012 (memorializing April 5, 2012 meetings with Commission staff); Letter from Jennifer L. Richter, Counsel, Windy City Cellular, LLC and Adak Eagle Enterprises, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, Notice of Ex Parte, WC Docket No. 10-90, *et al.*, dated May 17, 2012 (memorializing May 15, 2012 meetings with Commission staff); Letter from Monica Desai, Counsel, Windy City Cellular, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, Notice of Ex Parte, WC Docket No. 10-90, *et al.*, dated May 21, 2012 (memorializing May 17, 2012 meetings with Commission staff).

⁴ See *USF/ICC Transformation Order*, ¶ 544.

⁵ See Letter from Monica Desai, Counsel, Adak Eagle Enterprises, LLC and Windy City Cellular, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, Ex Parte Notice and Submission of Supplemental Information, WC Docket No. 10-90, *et al.*, dated August 20, 2012 ("AEE August 20, 2012 Ex Parte"); Letter from Monica Desai, Counsel, Adak Eagle Enterprises, LLC and Windy City Cellular, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, Second Submission of Supplemental Information, WC Docket No. 10-90, *et al.*, dated August 21, 2012; Letter from Monica Desai, Counsel, Adak Eagle Enterprises, LLC and Windy

On Tuesday, August 21, the same day AEE and WCC provided their second submission of supplemental information in response to Friday's conference call, and only nine days before a decision on AEE's Petition was anticipated, WCB and WTB memorialized their questions in a letter to AEE and WCC and informed the companies that they had stopped the Commission's deadline for rendering a decision.⁶ The Bureaus stated in their letter that they would restart the clock "once the new evidence has been provided to us in a format and with sufficient explanation and back-up information to enable us, and third parties entitled to have access to the information, to adequately evaluate it."⁷

The undersigned requested that staff please tell AEE and WCC whether the information the companies have provided in response to the staff call on Friday and subsequent letter sent on Tuesday is in an acceptable format for staff review and whether it contains sufficient detail to restart the clock.

The undersigned also emphasized the need for interim relief while the Commission considers this newly requested information. Without such relief, additional USF funding cuts will take effect.

As a result of the USF funding cuts that have already taken effect, AEE and WCC have had to terminate approximately one-third of their work force. As explained in more detail in the Ex Parte Notice filed on August 20, the current cuts in support to WCC (even with the interim partial relief granted to WCC while the Commission is evaluating a solution for AEE and WCC as a whole) also have already had numerous other detrimental impacts on the companies' current operations.⁸ WCC is already operating at a loss. Without interim relief, AEE will also begin operating at a loss on September 1 and will be forced to shut down by December 31, 2012.

AEE requests interim relief based on the timing of the staff's new information requests, AEE's and WCC's good faith efforts over the past five months to provide the Commission with timely and full information, and the financial strain that has been placed on the companies by the funding cuts that have already taken effect. Most critically, this relief will permit AEE to continue providing service without operating at a loss or being at risk of defaulting on its RUS loans in the interim. Without interim relief, and faced with the uncertainty of when a decision

City Cellular, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, Third Submission of Supplemental Information, WC Docket No. 10-90, *et al.*, dated August 22, 2012.

⁶ See Letter from Julie A. Veach, Chief, WCB, and Ruth Milkman, Chief, WTB, Federal Communications Commission, to Larry Mayes, WC Docket No. 10-90, *et al.*, dated August 21, 2012 ("WCB/WTB Letter").

⁷ *Id.* at 6.

⁸ See AEE August 20, 2012 Ex Parte at 2-3; see also *In the Matter of Connect America Fund, et al.*, WC Docket No. 10-90, *et al.*, Order, DA 12-923 (rel. June 12, 2012).

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will be made regarding long-term relief – and not even knowing whether the staff needs more or differently formatted information from WCC and AEE – the companies remain at a standstill. As they remain in limbo, their facilities are deteriorating, they are being forced to terminate employees, and they are losing opportunities for additional needed build-out as the annual window of opportunity for construction closes due to the weather conditions on Adak Island.

Respectfully submitted,

/s/

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