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September 7, 2012

**Via ECFS**

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

**Re: Notice of Ex Parte**  
**WC Docket Nos. 10-90, 07-135, 05-337, 03-109**  
**CC Docket Nos. 01-92, 96-45**  
**GN Docket No. 09-51**

Dear Ms. Dortch:

On Wednesday, September 5, 2012 and Thursday, September 6, 2012, Kenneth Johnson of Bennet & Bennet, PLLC, and Patrick Sherrill, President and Chief Executive Officer of Accipiter Communications Inc. (“Accipiter”), met in a series of meetings with 1) Priscilla Argeris, Legal Advisor to Commissioner Jessica Rosenworcel of the Federal Communications Commission (“FCC” or “Commission”); 2) Christine Kurth, Wireline Counsel to Commissioner Robert McDowell; 3) Angela Kronenberg, Wireline Legal Advisor to Commissioner Mignon Clyburn; 4) Michael Steffen, Legal Advisor to Chairman Julius Genachowski and Julie Veach, Chief of the Wireline Competition Bureau (“WCB”); and 5) Carol Matthey, Amy Bender, Patrick Halley, Trent Harkrader, Katie King, Joseph Sorresso, Susan Stevens-Miller, and Soumitra Das of the WCB to discuss Accipiter’s original and amended petition for waiver of the FCC’s universal service rules.<sup>1</sup> Tony Veach of Bennet & Bennet, PLLC also attended the latter WCB meeting.

Accipiter explained that its unique situation warrants a limited and targeted waiver of the FCC’s rules. Accipiter reasserted its request, previously made in its amended petition for

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<sup>1</sup> See *in re Connect America Fund, Accipiter Communications, Inc. Petition for Waiver of the Commission’s Rules Implementing Reform of Universal Service Support*, Petition for Temporary Waiver, WC Docket No. 10-90 (filed April 18, 2012); See also *in re Connect America Fund, Accipiter Communications, Inc. Petition for Waiver of the Commission’s Rules Implementing Reform of Universal Service Support*, Amendment to Petition for Temporary Waiver, WC Docket No. 10-90 (filed July 19, 2012).

waiver, that for 2012 and 2013, the Commission use Accipiter's most current line count data as of June 30, 2012, as a replacement variable in the per-line formula and regression formulas for determining Accipiter's universal service fund ("USF") limitations. A limited waiver will enable Accipiter to maintain service to its subscribers and meet its obligations to its lenders. Accipiter noted that its request would still cap Accipiter's support, leading to increased efficiencies in line with the Commission's overall universal service policies. Accipiter noted that while its need for a waiver is acute, such waiver would be for a discrete and particularly limited duration.

Accipiter explained the details of its service area. The majority of Accipiter's subscribers are located outside of suburban areas and within areas that are served exclusively by Accipiter. Accipiter noted that a small number of unserved locations still exist within its service territory. Accipiter also briefly discussed its August 7<sup>th</sup> Ex Parte presentation.<sup>2</sup>

Should you have any questions or require additional information, please do not hesitate to contact the undersigned.

Respectfully submitted,

By: /s/ Kenneth C. Johnson

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Katie King  
Joseph Sorresso  
Susan Stevens-Miller  
Soumitra Das

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<sup>2</sup> See Letter from Patrick Sherrill, President and Chief Executive Officer, Accipiter Communications Inc. to Marlene Dortch, Secretary, FCC, WC Docket No. 10-90 and WT Docket No. 10-208 (Aug. 7, 2012).