LUKAS, NACE,
GUTIERREZ & SACHS, LLP

8300 GREENSBORO DRIVE, SUITE 1200
MCLEAN, VIRGINIA 22102
703 584 8678 • 703 584 8696 FAX

WWW.FCCLAW.COM

RUSSELL D. LUKAS
DAVID L. NACE
THOMAS GUTIERREZ*
ELIZABETH R. SACHS*
DAVID A. LAFURIA
PAMELA L. GIST
TODD SLAMOWITZ*
BROOKS E. HARLOW*
TODD B. LANTOR*
STEVEN M. CHERNOFF*
KATHERINE PATSAS NEVITT*

CONSULTING ENGINEERS
ALI KUZEHKANANI
LEILA REZANAVAZ

OF COUNSEL
GEORGE L. LYON, JR.
LEONARD S. KOLSKY*
JOHN CIMKO*
J. K. HAGE III*
JOHN J. MCAVOY*
HON. GERALD S. MCGOWAN*
TAMARA DAVIS BROWN*
JEFFREY A. MITCHELL*
ROBERT S. KOPPEL*
MARC A. PAUL*

*NOT ADMITTED IN VA

Writer's Direct Dial:
(202) 828-9470
tgutierrez@fcclaw.com

September 21, 2012

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

Re: WT Docket No. 12-69

Dear Madam Secretary:

Pursuant to Section 1.1206 of the Commission's rules, 47 C.F.R., this correspondence constitutes notice of a permissible ex parte presentation in the captioned proceeding.

The meeting transpired on September 20, 2012. T. Clark Akers of Continuum 700 LLC met with Commissioner Clyburn and Louis Peraertz of Commissioner Clyburn's office.

At the meeting, some, but not all, of the issues included on the enclosure hereto were presented.

Please direct any questions to the undersigned counsel for Continuum 700 LLC.

Very truly yours,

/s/ Thomas Gutierrez
Counsel for Continuum 700 LLC

Enclosure

cc: Louis Peraertz

September 20, 2012

MEETING WITH THE OFFICE OF COMMISSIONER CLYBURN AND CONTINUUM 700 LLC REGARDING INTEROPERABILITY

I. Nothing Less Than the Existence of Competition in Wireless Broadband is at Stake Here!

A. 700 MHz is one of two wireless bands geared primarily towards wireless broadband.

B. In Auction 73, AT&T and Verizon bought the great majority of all spectrum, whether measured on a cost basis or a MHz/pop basis.

C. Add to that, AT&T bought 12 MHz of 700 MHz in all major markets prior to the auction. And AT&T may well buy additional 700 MHz spectrum in the Verizon secondary market auction. Thus, AT&T's dominance in 700 MHz is not in dispute.

D. The other wireless band where broadband is the focus is AWS. There Verizon just purchased a sizable interest that makes Verizon effectively dominant in that band. Broadband capacity of Sprint and T-Mobile is nominal, at best.

E. Thus, if the Commission genuinely wants competition in wireless broadband, it needs to permit smaller carriers to compete, and interoperability is a pre-requisite to that.

II. Interoperability Must Include Both Roaming Relief and Equipment Relief.

A. Interoperability means operating in Band Class 12.

B. Continuum 700 has invested hundreds of millions of dollars in Band Class 12 facilities already. By getting to market early, it has done just what the Commission has urged. Its investment should not be orphaned by lack of interoperability.

C. Proposals to re-involve 3 GPP in the interoperability process overlook timing problems; the fact that such an effort is not the type of issue 3 GPP handles; and the fact that 3 GPP is dominated by large carriers whose economic interest is not in interoperability.

D. Without interoperability, competition and small carrier involvement will go the way of the CLECs. That is a legacy no administration should want.

III. Interoperability is Necessary for Small Carriers to Compete.

A. Without interoperability, there will be no roaming. Roaming is key for consumer satisfaction and competitive offering for the many reasons the Commission has repeatedly noted.

B. The Commission's data roaming order is one of this administration's legacy accomplishments. Without 700 MHz interoperability, the data roaming rules need an asterisk stating "Does not apply to 700 MHz."

C. Roaming is needed, not only to create a competitive offering, but to facilitate incoming revenue.

D. Vibrant roaming is also key to service to rural areas and to public safety. History teaches us that it is the smaller carriers that focus more on rural areas and operate there first.

IV. A Second Critical Feature of Interoperability is Equipment.

A. Forty percent of all customers make their carrier decision based upon equipment.

B. Without interoperability, small carriers face more expensive equipment, fewer options, and longer waits. Vendors, as well as small carriers, have acknowledged this.

C. The equipment situation was bad enough before the recent verdict in the Apple/Samsung proceeding. Indeed, USCC reported that only one of nine manufacturers contacted would sell Band Class 12 equipment. Now that its vendor has received a devastating verdict in the San Francisco Apple/Samsung case, with more proceedings to come, the need for reasonable access to cutting edge equipment is even greater.

D. Last week's news and developments with the iphone 5 demonstrates the key role that equipment plays.

E. The requested Band Class 12 specification requirement that is needed here is no different from a multitude of equipment design requirements imposed by the Commission.

V. There Are No Technical Reasons Not to Require Interoperability.

A. In response to the FCC's request, only two genuine engineering studies were presented.

B. Both show there to be no technical impediments to interoperability.

VI. Necessary Relief.

A. Require Band Class 12.

B. Act in calendar year 2012.

C. Full implementation in calendar year 2013.