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October 1, 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 Thursday, September 27, 2012, Kenneth Johnson of Bennet & Bennet, PLLC, in a telephone conversation, spoke with Amy Bender of the Federal Communications Commission (“FCC” or “Commission”) Wireline Competition Bureau (“WCB”) to discuss Accipiter Communications Inc.’s (“Accipiter”) original and amended petition for waiver of the FCC’s universal service rules.<sup>1</sup>

Kenneth Johnson noted how reductions in current and prior year rate-of-return in the National Exchange Carrier Association (“NECA”) traffic sensitive pool have unexpectedly led to additional and considerable revenue losses for Accipiter. This pool activity has resulted in substantially less revenue for Accipiter in the last two months, accelerating Accipiter’s already precipitous negative cash flow situation. This accelerated revenue loss has also changed the outcome of Accipiter’s 2012 and 2013 financial forecast as compared to Accipiter’s forecast previously discussed in its July 19, 2012 filing. As such, the amended waiver request of the prior filing must be modified.

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<sup>1</sup> See *in re Connect America Fund, Accipiter Communications, Inc. Petition for Waiver of the Commission’s Rule 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 of Section 54.302 of the Commission's Rules (\$250.00 per line cap) and waiver of Section 36.621(a)(5) of the Commission's Rules (regression caps) through June 30, 2014 is now required for Accipiter to maintain service to its subscribers and meet its obligations to its lenders. By waiving application of these rules for a limited 24 month period, the Bureau will allow an adequate time period for Accipiter's current line growth to be appropriately factored into the universal service limitation formulas in 2014.

Kenneth Johnson emphasized that immediate Commission action on Accipiter's request for waiver is needed in order to prevent the severe financial consequences that will result if the ongoing depletion of the company's cash reserves is not stopped.

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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