

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
SMS/800, Inc. Petition to Change the	)	CC Docket No. 95-155
Composition of SMS/800, Inc.	)	WC Docket No. 12-260
	)	

**COMMENTS OF HYPERCUBE TELECOM, LLC,  
AMERICATEL CORPORATION, MATRIX TELECOM, INC., EXCEL  
TELECOMMUNICATIONS, INC. AND U.S. TELEPACIFIC CORP. D/B/A  
TELEPACIFIC COMMUNICATIONS**

HyperCube Telecom, LLC, Americatel Corporation, Matrix Telecom, Inc., Excel Telecommunications, Inc. and U.S. TelePacific Corp. d/b/a TelePacific Communications (“Joint Commenters”), by undersigned counsel, submit comments in response to the Commission’s Public Notice in the above-captioned proceeding.<sup>1</sup> Joint Commenters support the Petition to expand the membership and governance of SMS/800, Inc. (“Petitioner”) in order to increase industry participation in the oversight of the SMS/800 system and services.<sup>2</sup> Joint Commenters also support the requests to transfer tariffing responsibility for SMS/800 services to Petitioner<sup>3</sup> and for Petitioner to assume the role of neutral administrator, which is currently filled by Database Services Management, Inc. (“DSMI”).<sup>4</sup>

As explained herein, the proposed expansion of the Petitioner’s membership and management will benefit the entire industry served by the SMS/800 system and services,

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<sup>1</sup> Public Notice, *Wireline Competition Bureau Seeks Comment on SMS/800, Inc. Petition to Change the Composition of SMS/800, Inc.*, CC Docket No. 95-155, WC Docket No. 12, 260, DA 12-1502 (rel. September 17, 2012).

<sup>2</sup> SMS/800, Inc. Petition at p. 4-9 (dated September 13, 2012) (“Petition”).

<sup>3</sup> *Id.* at p. 10-15.

<sup>4</sup> *Id.* at p. 16-20.

including several hundred Responsible Organizations (“RespOrgs”), eight Service Control Point (“SCP”) owners and operators, and the three Bell Operating Companies (“BOCs”) that are Petitioner’s only current members. The proposed expansion will ensure that all industry participants have an opportunity to become members of Petitioner and be represented on Petitioner’s Board of Directors in a balanced manner. Also, the proposed membership and management expansion, the transfer of tariffing obligations, and assumption of the role as neutral administrator will be conducted in a way that ensures a seamless transition and will streamline the provision of SMS/800 service. For these reasons, Joint Commenters support approving Petitioner’s proposals to change the membership and management of Petitioner and change the operation and administration of SMS/800 services as described in the Petition.

**I. Expansion of Petitioner’s Membership and Management**

Petitioner proposes to expand its existing membership of three BOCs to allow all RespOrgs and SCP Owner/Operators in good standing with SMS/800 services to be eligible for membership. It also proposes to expand its management by implementing a new composition of Board of Directors over a three-year period with certain measures to safeguard Board representation by all industry sectors, such as a general limitation on a single company holding more than one elected seat and staggered three-year terms. At the end of the three-year period, Petitioner’s Board of Directors would be composed of 10 directors with the following representation: its Chief Operating Officer, four independents, one large RespOrg, one small RespOrg, one SCP Owner/Operator, and two at-large seats from any BOC, RespOrg or SCP Owner/Operator.<sup>5</sup>

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<sup>5</sup> *Id.* at p. 5-6.

Joint Commenters support Petitioner’s proposals to expand its existing membership and management. Today, many industry participants, and not just the three BOCs, are affected by the operation and management of SMS/800 services, and these participants should have an opportunity to contribute to and be represented in such operation and management. Petitioner’s proposed expansion will provide all industry participants concerned with the operation and management of SMS/800 services with an opportunity to become involved. Such expansion will result in input from diverse affected parties, so that Petitioner can better serve the industry. Moreover, Petitioner has already obtained broad industry support for its reorganization by working with a Transition Committee made up of industry representatives to develop the proposal.<sup>6</sup>

Joint Commenters also support the process Petitioner has developed to complete the proposed expansion. In addition to providing a balanced composition of industry participants and independent directors for the Board of Directors, Petitioner has set forth a reasonable nominating process and sufficient candidate criteria to assure fair representation and a seamless transition.<sup>7</sup> Joint Commenters also agree that the Commission has the authority to approve the proposed membership and management expansion by acting on the Petition.<sup>8</sup>

## **II. Transfer of Tariff Responsibility to Petitioner**

Upon approval of the Petition, Petitioner plans to seek authority to transfer tariffing responsibility for SMS/800 services offered to RespOrgs from the BOCs because Petitioner will “directly control all fundamental aspects of SMS/800 services.”<sup>9</sup> Petitioner states it would have

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<sup>6</sup> Petition at p. 4.

<sup>7</sup> *Id.* at p. 6-8.

<sup>8</sup> *Id.* at p. 9.

<sup>9</sup> *Id.* at p. 10.

“the same authority, responsibility, and obligations for filing and enforcing the tariff, and for providing SMS/800 access on reasonable and non-discriminatory terms and rates, that the BOCs currently have.”<sup>10</sup>

Joint Commenters agree with Petitioner that the Commission has the legal authority to transfer tariffing responsibility for SMS/800 services from the BOCs to Petitioner. In addition, a transfer of the tariffing responsibility to Petitioner upon approval of the Petition will allow the provision of SMS/800 services to be administered more efficiently.

### **III. Assumption of Neutral Administrator Role by Petitioner**

As part of the tariff transfer, Petitioner requests that it, rather than DSMI, serve as the neutral administrator of SMS/800 services, because Petitioner already runs day-to-day operations of SMS/800 services and holds contracts with SCP Owner/Operators and third-party vendors.<sup>11</sup> Petitioner also proposes to continue its contract with DSMI for a period of time to ensure continuity and prevent any loss of institutional knowledge.<sup>12</sup>

Joint Commenters support Petitioner’s request to assume the neutral administrator role and agree Petitioner will meet the regulatory criteria for neutrality upon completion of the proposed expansion of its membership and management to the entire industry.<sup>13</sup> They also agree that Petitioner’s administrator assumption will result in more efficient administration and provision of service through the elimination of an additional contracting party.

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<sup>10</sup> *Id.*

<sup>11</sup> Petition at p. 16.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at p. 17-20.

#### IV. Conclusion

For the reasons set forth herein, Joint Commenters support the Petition of SMS/800, Inc. to expand its membership and governance to the entire industry, to transfer the SMS/800 service tariffing responsibility, and to assume the role of neutral administrator of SMS/800 services.

Respectfully submitted,

*/s/ electronically signed*

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Eric J. Branfman  
Danielle Burt  
BINGHAM MCCUTCHEN, LLP  
2020 K St., NW  
Washington, DC 20006  
202.373.6000 (t)  
202.373.6001 (f)  
eric.branfman@bingham.com  
[danielle.burt@bingham.com](mailto:danielle.burt@bingham.com)

Counsel for HyperCube Telecom, LLC,  
Americatel Corporation, Matrix Telecom,  
Inc., Excel Telecommunications, Inc. and  
U.S. TelePacific Corp. d/b/a TelePacific  
Communications

Dated October 1, 2012