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December 12, 2012

**Via ECFS**

Marlene H. Dortch, Secretary  
Office of the Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**Re: Notice of Ex Parte**

*Connect America Fund, WC Docket No. 10-90, High-Cost Universal Service Support, WC Docket No. 05-337, Accipiter Communications Inc. Petition for Waiver of the Commission's Rules Implementing Reform of Universal Service Support*

Dear Ms. Dortch:

On Tuesday, December 11, 2012, Joseph Cavender, Joseph Sorresso, and Erin Boone of the Federal Communications Commission ("FCC" or "Commission") Wireline Competition Bureau ("WCB") contacted Kenneth Johnson of Bennet & Bennet PLLC, counsel for Accipiter Communications Inc. ("Accipiter"), to discuss Accipiter's second amended petition for waiver.<sup>1</sup> As a result of that conversation, Accipiter notes that its National Exchange Carrier Association ("NECA") revenue receipts and Rural Utilities Service ("RUS") payments occur on the last business day of each month. As noted in previous ex parte filings, Accipiter's counsel confirmed the need for a decision on this matter by the 15<sup>th</sup> of December due to Accipiter's increasingly dire financial situation as 2012 comes to a close.

To demonstrate Accipiter's prudent financials, attached as Exhibit 1 is a graph showing how Accipiter's operating expenses ("opex") have been flat through the years, while Accipiter's growth has increased dramatically. This flat opex rate, even as Accipiter grows, is clear proof of Accipiter's internal efficiencies. If Accipiter were to cut its already low expenses, it would severely jeopardize its demonstrated, and needed, growth. In fact, Accipiter's growth will put it

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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, Second Amendment to Petition for Temporary Waiver, WC Docket No. 10-90* (filed Nov. 1, 2012).

in compliance with the FCC's caps by 2Q13, except that Accipiter needs an additional two years for the FCC's rules to recognize this rapid growth.

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

Respectfully submitted,

By: /s/ Kenneth C. Johnson

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## Zona Historical Growth in Operating Expenses and RGU Count 2007 through 2011

