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December 18, 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 Friday, December 14, 2012, Monday, December 17, 2012, and Tuesday, December 18, 2012, Patrick Sherrill, President and Chief Executive Officer, and Jenifer Vellucci, Chief Financial Officer, of Accipiter Communications Inc. ("Accipiter"), and Kenneth Johnson of Bennet & Bennet PLLC, in a series of meetings, met with Michael Steffen, Legal Advisor to Federal Communications Commission ("FCC" or "Commission") Chairman Julius Genachowski and Julie Veach, Chief of the Wireline Competition Bureau ("WCB"), as well as other WCB and FCC staff to discuss Accipiter's second amended petition for waiver<sup>1</sup> and, specifically, Accipiter's cash balances. Representing WCB and the FCC at these meetings were Amy Bender, Rebekah Goodheart, Trent Harkrader, Joseph Cavender, Gary Seigel, Joseph Sorresso, Erin Boone, and Hillary Burchuk. In those meetings, Accipiter provided details of a number of financial forecasting issues.

Accipiter noted that the balance sheets on its forecasts in the "No Waiver" scenario show two cash accounts. One is labeled "Cash and Working Funds." The other is labeled "Cash - RUS Construction Funds." The Rural Utilities Service ("RUS") Construction Funds account is an account designated for holding RUS loan advances until the cash is paid for the purpose 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, Second Amendment to Petition for Temporary Waiver, WC Docket No. 10-90* (filed Nov. 1, 2012).

which the funds are drawn. The cash held in that account cannot be used to fund operations. It can only be used to make payments for loan purposes, which in Accipiter's case is the construction of new network facilities. The Cash and Working Funds account holds Accipiter's operating cash. Accipiter noted that a low balance in this account would make it extremely difficult for Accipiter to support ongoing operations.

Jenifer Vellucci provided the Commission with an explanation of how Accipiter calculated the deleterious effect of the \$250 cap on Accipiter's cash flow. Patrick Sherrill outlined his concerns regarding ongoing Rural Utilities Service ("RUS") funding and the acute need for Commission certainty on the waiver to help secure future financing. Accipiter emphasized that grant of the requested waiver in a timely manner is crucial to the growth of Accipiter.

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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