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April 29, 2013

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

**Re: WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135,
WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45
WC Docket No. 03-109, WT Docket No. 10-208
Notice of *Ex Parte* Presentation**

Dear Ms. Dortch:

On April 26, 2013, Jim Schumacher of Smart City Telecommunications LLC d/b/a Smart City Telecom (“Smart City”), and John Kuykendall and Steve Meltzer of John Staurulakis, Inc., met with Kalpak Gude, Randy Clarke, Don Sussman and Greg Haledjian of the Wireline Competition Bureau. The subject of discussion was the Smart City Petition for Limited Waiver of the Commission’s intercarrier compensation revenue recovery rules, specifically the 2011 Rate-of-Return Carrier Base Period Revenue.¹

Mr. Schumacher explained that to comply with Section 51.917(b)(7)(ii) of the Commission’s rules, Smart City excluded FY2011 revenues, not yet collected because of an ongoing billing dispute. The time period associated with the billing dispute was for the period of August 1, 2010 through January 1, 2012. The negotiations for the disputed amounts spanned the entire calendar year of 2012 and ultimately resulted in a settlement which included revenues billed for terminating intrastate switched access service provided in FY 2011. Because the revenues were collected after March 31, 2012, Smart City did not include the revenues in its FY 2011 base period revenue and now seeks waiver to allow those revenues to be included.

The participants then discussed the Petition which describes that the FCC anticipated that there would be circumstances similar to this where revenues associated with FY 2011 were not able to be collected by March 31, 2012 and allowed for a waiver of the March 31, 2012 deadline in its USF-ICC Transformation Order.² In this context, Mr. Schumacher provided

¹ See Petition of Smart City Telecommunications LLC d/b/a Smart City Telecom for Limited Waiver of 47 C.F.R. § 51.917(b), WC Docket No. 10-90 *et al.*, filed March 27, 2013 (“Petition”).

² See *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform—Mobility Fund*; WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92,

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the Bureau with the total amount agreed upon in the settlement negotiations and demonstrated how Smart City was able to calculate the FY 2011 Base Period revenue portion which includes only the Intrastate Terminating amount. During these discussions, Mr. Schumacher explained that this amount is lower than the amount stated in the Petition due to an inadvertent miscalculation and that in conjunction with this *ex parte* notice, Smart City will file an amended Petition which will reflect the correctly calculated revenue amount as well as include a schedule supporting these calculations.

In closing, Mr. Schumacher urged the Commission to grant the Petition so that Smart City can amend the base period revenue to include the disputed amounts collected that rightfully belong in the FY 2011 base period. Mr. Schumacher also requested that the Commission grant the waiver prior to the 2013 Annual Access Tariff Filing. In the event that does not occur, Mr. Schumacher requested that the grant of the waiver after the 2013 Annual Access Tariff filing allow for the inclusion of the amount in the FY 2011 base period as of July 1, 2013.

Please contact the undersigned with any questions.

Respectfully submitted,



John Kuykendall
Vice President

cc: Kalpak Gude
Randy Clarke
Don Sussman
Greg Haledjian

96-45, GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-61 (rel. Nov. 18, 2011) (“*USF/ICC Transformation Order*”) at footnote 1745; *pets. for review pending sub nom. In re: FCC 11-161*, No. 11-9900 (10th Cir. filed Dec. 8, 2011).

John Staurulakis, Inc.