

May 27, 2014

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Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

Re: **Ex Parte: WC Docket No. 10-90 and WT Docket No. 10-208**  
**Adak Eagle Enterprises, LLC and Windy City Cellular, LLC**

Dear Ms. Dortch:

Adak Eagle Enterprises, LLC (“AEE”) and Windy City Cellular, LLC (“WCC”) submit this letter to follow up on their filing of April 30 requesting an update from staff regarding the review of the companies’ Petitions for Waiver.<sup>1</sup> It has now been more than two years since AEE and WCC filed their Petitions, and nine and a half months since the companies filed their Petitions for Reconsideration and Application for Review.<sup>2</sup> The companies remain unaware of any reason at this point for the Bureaus to further delay granting their waiver requests. AEE and WCC have addressed every single concern raised by the Bureaus in their denial order,<sup>3</sup> and have provided all information requested by the Bureaus throughout the waiver process. With only nine weeks of interim relief remaining, the companies’ need for feedback from the Bureaus is increasingly urgent.

As emphasized in the companies’ April 30 letter, AEE and WCC have been struggling for more than two years to maintain operations following release of the *USF/ICC Transformation Order*,<sup>4</sup> which hit WCC with an immediate 84% flash cut in funding and implemented a rapid phase-down in funding for AEE. The companies remain at an operational standstill with deteriorating assets and a decimated workforce, unable to plan for the future. AEE and WCC appreciate the extension of

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<sup>1</sup> Petition for Waiver of Windy City Cellular, LLC, WC Docket No. 10-90, *et al.* (filed April 3, 2012); *see also* Petition for Waiver of Adak Eagle Enterprises, LLC, WC Docket No. 10-90, *et al.* (filed May 22, 2012); *see also* Letter from Monica Desai, Counsel, AEE and WCC, to Marlene H. Dortch, Secretary, FCC, Ex Parte, WC Docket No. 10-90, *et al.* (filed April 30, 2014).

<sup>2</sup> Application for Review, AEE and WCC, WC Docket No. 10-90 and WT Docket No. 10-208 (filed Aug. 14, 2013) (“Application for Review”); *see also* Petition for Reconsideration, AEE and WCC, WC Docket No. 10-90 and WT Docket No. 10-208 (filed Aug. 14, 2013) (“Petition for Reconsideration”).

<sup>3</sup> *See Adak Eagle Enterprises, LLC and Windy City Cellular, LLC, Petitions for Waiver of Certain High-Cost Universal Service Rules*, WC Docket No. 10-90 and WT Docket No. 10-208, Order, 28 FCC Rcd 10194 (2013).

<sup>4</sup> *See Connect America Fund, et al., Report and Order and Further Notice of Proposed Rulemaking*, 26 FCC Rcd 17633 (2011) (“*USF/ICC Transformation Order*”).

interim relief provided by the Bureaus in February,<sup>5</sup> but the continuing uncertainty surrounding the waiver review process and the lack of any information regarding next steps make it impossible for the companies to forecast budgets, plan future operations to meet consumer demand, or even restore critical network redundancy – all of which are crucial for public safety in a remote environment that is in the vicinity of an active volcano, in an earthquake zone, in a volcano zone, in a tsunami zone, and in an extreme climate with frequent cyclonic storms, wind gusts in excess of 100 knots, and average accumulated snowfall of 100 inches.

As a result of the ongoing uncertainty, AEE and WCC remain unable to predict whether they will be able to continue providing essential voice and broadband services to customers who rely on them. For example, the Explosive Ordnance Disposal Team is currently cleaning up active bombs left on Adak Island after World War II, and continues to rely on the critical broadband and voice services provided by AEE and WCC. The companies, however, are still unable to predict with any certainty whether they will be able to continue providing these critical services in the future.

The importance of AEE and WCC being able to plan long-term budgets and operate with adequate redundancy also was demonstrated just last month when the Adak community suffered an electrical brownout, causing a temporary service outage to all customers on Adak Island. As a result of the brownout, a number of electrical cards in AEE's switch were damaged and had to be replaced. Fortunately, AEE already had a number of spare cards on hand to replace the damaged equipment, allowing service to be restored quickly. However, purchasing new backup cards for use in similar scenarios in the future will now cost AEE approximately \$30,000. Due to the uncertainty surrounding the waiver review process, the companies are unable to forecast budgets and plan for these types of unexpected expenses that frequently arise in an environment as extreme and remote as Adak Island.

Additionally, the brownout damaged the electrical boxes on a number of houses on the island. In order to restore full service to these houses, AEE had to repair the electrical boxes, which contained connections to AEE's fiber. Repair of the electrical boxes was not a job that could be completed by a single technician. Thus, because AEE only had one technician on the island due to the cuts in its USF funding, AEE's CEO had to fly out to Adak Island to help with the technical repair work for a full week. Given how critical it is to have more than one full-time technician on the island to perform emergency repair work, AEE has now hired a second technician on a contract basis for 90 days. Without this second technician, AEE's sole technician was unable to leave the island or take time off without jeopardizing public safety in the event of an unexpected service outage. AEE would like to transition the contract technician position into a full-time position, but it is critical for the companies to have certainty regarding the waiver review process in order to budget for this essential position.

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<sup>5</sup> *Connect America Fund, Universal Service Reform – Mobility Fund, Petitions for Waiver of Windy City Cellular, LLC and Adak Eagle Enterprises, LLC*, WC Docket No. 10-90 and WT Docket No. 10-208, Order, 29 FCC Rcd 2112 (rel. Feb. 28, 2014).

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As explained throughout the waiver process, AEE and WCC have never tried to game the system with schemes such as taking support for multiple lines per customer. Instead, AEE and WCC have embodied the very purpose of universal service by working hard and reinvesting USF support to maintain essential services for residents, government agencies, businesses, and workers on Adak Island. These essential services include the most comprehensive wireless service, the only reliable E911 service, and the only wireline service on Adak Island. Moreover, AEE's fiber infrastructure is necessary to support ALL communications services on the island, including broadband.

Demonstrating how essential the companies' services are on Adak Island, the Adak community and numerous government agencies have voiced overwhelming support for the companies' waiver requests. Indeed, more than 16 government agencies, businesses, residents, and other entities – including the U.S. Department of Interior Fish and Wildlife Service, the City of Adak, the Adak Police Department, the U.S. Geological Survey, and the entire Alaskan delegation (twice) – have filed in support of AEE and WCC.<sup>6</sup>

As reflected in their previous filings, AEE and WCC have diligently responded to each and every concern raised by the Bureaus in their denial of the companies' Petitions for Waiver. Moreover, AEE and WCC have provided hundreds upon hundreds of pages of detailed information demonstrating their need for waivers and showing that they satisfy the Commission's waiver standard. The companies submitted all of the information required pursuant to Section VII(G) of the *USF/ICC Transformation Order*, and promptly and comprehensively responded to each of the

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<sup>6</sup> See, e.g., Petition for Waiver of Adak Eagle Enterprises, LLC, WC Docket No. 10-90, *et al.*, at Attachment A (filed May 22, 2012); Letter from Monica Desai, Counsel, AEE and WCC, to Marlene H. Dortch, Secretary, FCC, Notice of Ex Parte, WC Docket No. 10-90, *et al.*, at Attachment 3 (dated May 31, 2013); Letter from Monica Desai, Counsel, AEE and WCC, to Marlene H. Dortch, Secretary, FCC, Notice of Ex Parte and Submission of Further Supplemental Information, WC Docket No. 10-90, *et al.*, at Attachment 8 (dated April 12, 2013) (Letter of Support filed by Sen. Mark Begich, Sen. Lisa Murkowski, and Congressman Don Young (first of two); the City of Adak; Marine Exchange of Alaska (first of two); Aleut Corporation; Adak Community Development Corporation; Alaska Maritime National Wildlife Refuge, U.S. Department of the Interior, Fish and Wildlife Service; Icicle Seafoods, Inc.; Eastern Aleutian Tribes; National Telecommunications Cooperative Association; U.S. Geological Survey; Southwest Alaska Municipal Conference; and the Adak Police Department); see also Letter from Monica Desai, Counsel, AEE and WCC, to Marlene H. Dortch, Secretary, FCC, Notice of Ex Parte, WC Docket No. 10-90, *et al.*, Declaration of Elaine Smiloff (filed Sept. 12, 2013); see also Reply of NTCA – The Rural Broadband Association and the Western Telecommunications Alliance to Opposition of General Communication, Inc., WC Docket No. 10-90 and WT Docket No. 10-208 (filed Sept. 9, 2013); see also Letter from Shannon M. Heim, Counsel, Alaska Rural Coalition, to Marlene H. Dortch, Secretary, FCC, Notice of Ex Parte, WC Docket No. 10-90 and WT Docket No. 10-208 (filed Sept. 19, 2013); Letter from John Charles Padalino, Administrator, Rural Utilities Service, to Acting Chairwoman Mignon Clyburn, FCC, WT Docket No. 10-208, *et al.*, at 3 (dated Aug. 14, 2013); Letter from the Rep. Don Young, Sen. Lisa Murkowski, and Sen. Mark Begich to Acting Chairwoman Clyburn, FCC (dated Oct. 17, 2013) (second of two); Oct. 2013 Marine Exchange of Alaska Letter (second of two); Letter from David Honig, President of MMTTC, *et al.*, to the Honorable Mignon Clyburn, Acting Chairwoman, FCC, *et al.*, WC Docket No. 10-90 and WT Docket No. 10-208 (filed Oct. 28, 2013).

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dozens of additional questions and categories of information requested by staff, even when those requests went far beyond the scope of review set forth by the Commission.<sup>7</sup>

Given that AEE and WCC have addressed all of the Bureaus' concerns, the companies urge the Bureaus to grant their waiver requests expeditiously before their interim funding runs out. With only nine weeks of interim relief left, AEE and WCC would appreciate receiving feedback from the Bureaus as soon as possible regarding next steps and the expected timeline for completing the review of the companies' Application for Review and Petition for Reconsideration. AEE and WCC reiterate that they have submitted every piece of information they have to provide but continue to stand ready to return to Washington, D.C., to meet with staff if necessary, or to discuss any further information needed by phone.

Respectfully submitted,



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<sup>7</sup> See, e.g., Letter from Monica Desai, Counsel, AEE and WCC, to Marlene H. Dortch, Secretary, FCC, Notice of Ex Parte and Submission of Supplemental Information, WC Docket No. 10-90, *et al.*, (filed Aug. 20, 2012); Letter from Monica Desai, Counsel, AEE and WCC, to Marlene H. Dortch, Secretary, FCC, Second Submission of Supplemental Information, WC Docket No. 10-90, *et al.*, (filed Aug. 21, 2012); Letter from Monica Desai, Counsel, AEE and WCC, to Marlene H. Dortch, Secretary, FCC, Third Submission of Supplemental Information, WC Docket No. 10-90, *et al.*, (filed Aug. 22, 2012); Letter from Jennifer Richter, Counsel, AEE and WCC, to Marlene H. Dortch, Secretary, FCC, Fourth Submission of Supplemental Information, WC Docket No. 10-90, *et al.*, (filed Aug. 27, 2012).

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