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*NOT ADMITTED IN VA

June 12, 2009

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-B204
Washington, DC 20554

Re: WC Docket No. 05-337
CC Docket No. 96-45

Madam Secretary:

In accordance with Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, we hereby provide you with notice of an oral ex parte presentation in connection with the above-captioned proceeding. On Thursday, June 11, 2009, undersigned counsel, on behalf of Rural Cellular Association ("RCA"), met with Thomas Buckley, Katie King, Gary Seigel, and Theodore Burmeister of the Wireline Competition Bureau.

At the meeting, we discussed the difficulty many carriers are experiencing in attempting to get clear information from the Universal Service Administrative Company ("USAC") about the implementation of the interim cap on high-cost support to competitive eligible telecommunications carriers. We reiterated the arguments made in RCA's comments and reply comments in response to the Corr Wireless Communications, LLC, Request for Review filed in the above-referenced dockets on March 11, 2009.

We also discussed the common finding by auditors that carriers are not compliant with Section 54.201 of the Commission's rules if they do not list each supported service in their advertisements. Undersigned counsel emphasized that the services and functionalities listed in the FCC's rules together amount to what consumers understand as a single, integrated basic telephone service offering, and that consumers will not understand an advertisement that lists, for example, "dual-tone, multi-frequency signaling."

Marlene H. Dortch, Secretary

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A copy of the materials distributed at the meeting is attached. If you have any questions or require any additional information, please contact undersigned counsel directly.

Sincerely,

A handwritten signature in black ink, appearing to read "David A. LaFuria". The signature is fluid and cursive, with a prominent loop at the end.

David A. LaFuria
Steven M. Chernoff

Encl.

cc: Thomas Buckley, Esq.
Katie King, Esq.
Theodore Burmeister, Esq.
Gary Seigel, Esq.

Comments of Rural Cellular Association on Petition of Corr Wireless

WC Docket 05-337

CC Docket 96-45

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June 11, 2009

Description of the VZW/Alltel Merger Order and the Interim Cap Order

- The *Interim Cap Order* established a state-by-state cap consisting of the amount of CETC support each state was eligible to receive in March 2008. These statewide amounts were published in December 2008, and carriers were given until December 31, 2008, to file corrections in order to “provide certainty regarding the amount of high-cost support available to competitive ETCs under the cap in each state[.]”
- The *VZW/Alltel Merger Order*, released in November of 2008, included a “voluntary commitment” from VZW to step down its support 20% per year for five years, beginning in 2009.

USAC's Implementation of the Interim Cap Order

- Under the *Interim Cap Order*, support is distributed to CETCs according to their market share, subject to the cap. That is, all CETCs in the state compete for available support. When a carrier relinquishes ETC status, “head room” is created which allows other eligible CETCs to increase support incrementally until total CETC support in the state reach the March 2008 capped amount.
- USAC has announced that it is now reducing the March 2008 cap amount by 20% per year over five years for each state in which VZW has relinquished ETC status or voluntarily reduced support.
- For example, in a state with a \$10 million cap, if VZW relinquishes ETC status that provided \$3 million in annual support, then the amount of support shared by other CETCs in the state would be reduced by \$600,000 (20% of \$3 million) in the first year.

USAC's Implementation of the Interim Cap Order (cont'd)

- There is nothing in either the *Interim Cap Order* or the *VZW/Alltel Merger Order* legally authorizing any reduction of the March 2008 cap amount.
- Six months after the beginning of the step-down, despite numerous inquiries, USAC still has not disclosed the amount by which it has reduced the statewide cap amounts.
- This uncertainty violates the statutory requirement that support be “predictable.”

The VZW/Alltel Merger Order Provides No Legal Basis to Change How Support is Distributed Under the Interim Cap Order

- VZW's commitment was a private agreement, made with the FCC chairman during the Sunshine Period, without any public notice or input. VZW's "understanding" of its private agreement is not law.
- There is nothing in the *VZW/Alltel Merger Order* which affects the operation of the interim cap as set forth in the *Interim Cap Order*. Any substantive change to the *Interim Cap Order* must be done by the FCC, pursuant to an APA rulemaking proceeding.
- USAC is not authorized to reduce the amounts established in the *Interim Cap Order*. RCA's recently-filed comments discuss this extensively.
- To date, the private agreement between the former chairman and VZW provides the sole basis for USAC's reducing support.

Remedy

- While the Corr Wireless Request for Review remains pending, instruct USAC to provide support to CETCs based on the cap amounts established in the *2008 Interim Cap Order*.
- Grant the Corr Wireless Request for Review and instruct USAC to retain the existing March 2008 statewide cap amounts and provide support as established in the *2008 Interim Cap Order* until universal service reform is enacted.