

December 8, 2004

**ELECTRONIC FILING**

John A. Rogovin  
General Counsel  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

**Re: Modification of *Ex Parte* Rules for 800 MHz Transition Administrator**  
**WT Docket No. 02-55**

Dear Mr. Rogovin:

The Transition Administrator for the 800 MHz Reconfiguration (“800 MHz TA”) hereby requests the Commission to modify the *ex parte* rules applicable to the 800 MHz TA in the above-captioned proceeding. Section 1.1200(a) of the Commission’s rules gives the Commission and its staff discretion to modify the *ex parte* rules by order, letter, or public notice “where the public interest so requires in a particular proceeding.”<sup>1</sup>

The 800 MHz TA requests that the Commission modify the *ex parte* rules to exempt the 800 MHz TA from the *ex parte* requirements with respect to presentations to the Commission and its staff regarding the 800 MHz reconfiguration. Such an exemption would serve the public interest by facilitating open communications with the Commission and thereby potentially expediting the reconfiguration process. Furthermore, the 800 MHz TA will likely need to confer with the Commission staff on matters that are subject to arbitration, investigation or litigation. It would be appropriate for these deliberations to take place on an undisclosed basis.

The Commission’s rules exempt other private administrators from *ex parte* requirements. For example, the Commission exempted presentations by the administrator of the interstate telecommunications relay services fund relating to administration of the fund.<sup>2</sup> The Commission also exempted presentations by the North American Numbering Plan Administrator and the North American Numbering Plan Billing and Collection Agent relating to the administration of the North American

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<sup>1</sup> 47 C.F.R. § 1.1200(a).

<sup>2</sup> See § 1.1204(a)(12)(i).

Numbering Plan.<sup>3</sup> Presentations by the Universal Service Administrative Company relating to the administration of universal service support mechanisms are exempt from *ex parte* requirements,<sup>4</sup> along with presentations by the Number Portability Administrator with respect to the administration of local number portability.<sup>5</sup> The Commission's rules also exempt presentations made by members of advisory coordinating committees with respect to the coordination of frequency assignments to stations in the private land mobile services or fixed services.<sup>6</sup>

As noted in the 800 MHz Order, the Commission has in the past utilized private administrators to facilitate band reconfigurations.<sup>7</sup> For example, in 1994, the Commission appointed UTAM Inc. to oversee the transition and band clearing of fixed microwave operations. In addition, in 1996, the Commission appointed the Personal Communications Industry Association and the Industrial Telecommunications Association, Inc. to administer the microwave clearinghouse cost-sharing plan. In both of these cases, the appointed administrators were certified as frequency coordinators and were therefore apparently able to communicate openly with the Commission staff utilizing the *ex parte* exemption for frequency coordinators.

The 800 MHz Order, however, concludes that the 800 MHz TA will not be certified as a frequency coordinator.<sup>8</sup> Therefore, it would serve the public interest to facilitate unfettered presentations by the 800 MHz TA to the Commission and its staff by exempting the 800 MHz TA from the Commission's *ex parte* requirements. As the Commission observed in its 800 MHz Order, the 800 MHz TA is an independent party with no financial interest in any 800 MHz licensee.<sup>9</sup> Therefore, an exemption from the Commission's *ex parte* rules would not prejudice any party.

Please let me know if you have any questions about this matter.

Sincerely,

/s/ Robert B. Kelly  
Robert B. Kelly  
Squire, Sanders & Dempsey L.L.P.

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<sup>3</sup> See § 1.1204(a)(12)(ii).

<sup>4</sup> See § 1.1204(a)(12)(iii).

<sup>5</sup> See § 1.1204(a)(12)(iv).

<sup>6</sup> See § 1.1204(a)(7).

<sup>7</sup> See *Improving Public Safety Communications in the 800 MHz Band*, Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order, FCC 04-168, ¶ 191, n.509 (Aug. 6, 2004).

<sup>8</sup> See *id.*, ¶ 197.

<sup>9</sup> See *id.*, ¶ 191.