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February 12, 2004

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VIA ELECTRONIC FILING

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

**RE: In the Matter of Improving Public Safety
Communications in the 800 MHz Band
WT Docket No. 02-55
Ex Parte Presentation**

Dear Ms. Dortch:

On behalf of AirPeak Communications, LLC ("AirPeak") and Airtel Wireless Services, LLC ("Airtel") (collectively "Companies") and in accordance with Section 1.1206(b) of the Commission's Rules, 47 C.F.R. § 1.1206(b), undersigned counsel hereby submits the instant notice of an *ex parte* presentation.

On February 11, 2004, James D. Boyer of AirPeak and James W. Brock of Airtel, along with undersigned counsel, met separately with David Furth, Associate Bureau Chief and Chief Counsel and Aaron N. Goldberger, Legal Advisor, both of the Office of the Bureau Chief, of the Wireless Telecommunications Bureau; with Barry Ohlson, Legal Advisor for Spectrum and International Issues, Office of Commissioner Jonathan S. Adelstein; and with Sheryl J. Wilkerson, Legal Advisor, Office of Chairman Michael K. Powell and Jennifer Manner, Senior Counsel, Office of Commissioner Kathleen Q. Abernathy, to discuss issues relating to implementation of the 800 MHz "Consensus Plan" consistent with the Companies' earlier-filed Comments in this proceeding.

Marlene H. Dortch, Secretary
February 12, 2004
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The Companies addressed the issues outlined on the attached *ex parte* memorandum (Attachment A). The more abbreviated version of this document was provided to participants in the first two meetings (Attachment B).

Kindly refer any questions or correspondence regarding this matter to the undersigned.

Very truly yours,

/s/

Elizabeth R. Sachs

cc: David Furth
Aaron N. Goldberger
Barry Ohlson
Sheryl J. Wilkerson
Jennifer Manner

WT DOCKET NO. 02-55

***EX PARTE* PRESENTATION
FEBRUARY 11, 2004
AIRPEAK COMMUNICATIONS, LLC
AIRTEL WIRELESS SERVICES, LLC**

800 MHz CONSENSUS PLAN

- PROPOSES BAND BIFURCATION TO RESOLVE INTERFERENCE PROBLEM:
 - “CELLULARIZED” SYSTEMS ABOVE 861 MHz;
 - “NON-CELLULARIZED” SYSTEMS BELOW 861 MHz.

- CELLULARIZED SYSTEMS DEFINED AS THOSE WITH FOLLOWING CHARACTERISTICS:
 - MORE THAN FIVE (5) OVERLAPPING, INTERACTIVE SITES FEATURING HAND-OFF CAPABILITY;
 - SITES WITH ANTENNA HEIGHTS OF LESS THAN ONE HUNDRED (100) FEET ABOVE GROUND LEVEL ON HAATS OF LESS THAN FIVE HUNDRED (500) FEET; AND
 - SITES WITH MORE THAN TWENTY (20) PAIRED FREQUENCIES. (JOINT COMMENTERS REPLY COMMENTS (AUG. 7, 2002))

- POST-REBANDING, “CELLULARIZED” SYSTEMS BELOW 861 MHz PERMITTED ONLY AFTER

SATISFYING STRICT WAIVER SHOWING (JOINT COMMENTERS REPLY COMMENTS (AUG. 7, 2002))

- AIRPEAK/AIRTEL BOTH USE MOTOROLA DIGITAL HARMONY TECHNOLOGY:
 - iDEN DERIVATIVE;
 - PROVIDES DIGITAL DISPATCH AND INTERCONNECT SERVICE;
 - USES MOTOROLA, NOT NORTEL, SWITCH;
 - USES iDEN BASE STATIONS AND CERTAIN SUBSCRIBER UNITS;
 - SUPPORTS HIGH-SITE AND LOW-SITE TRANSMITTERS;
 - PERMITS FREQUENCY REUSE AND SEAMLESS CALL HAND-OFF.

- AIRPEAK/AIRTEL ONLY TWO COMMERCIAL HARMONY OPERATORS IN UNITED STATES AND SERVE PRIMARILY THIRD TIER AND RURAL MARKETS: E.G., MONTANA, ALASKA, SPOKANE AND ALBUQUERQUE.

- AIRPEAK/AIRTEL HOLD BOTH GEOGRAPHIC (EA) AND SITE-SPECIFIC LICENSES.

- GENERAL REGULATORY STATUS: HARMONY CLASSIFIED AS “COVERED CARRIER”.

- 800 MHz REGULATORY STATUS UNDER CONSENSUS PLAN: HARMONY CLASSIFIED AS “CELLULARIZED”.

**ISSUE: AIRPEAK/AIRTEL MUST BE ASSIGNED
“CELLULARIZED” SPECTRUM ABOVE 861 MHz IF 800
MHz CONSENSUS PLAN IS ADOPTED.**

- BOTH COMPANIES HAD ORDERED AND BEGUN DEPLOYMENT OF HARMONY NETWORKS PRIOR TO AUG. 2002 WHEN JOINT COMMENTERS DEFINED “CELLULARIZED” SYSTEMS.
- DOUBTFUL THAT EITHER COMPANY COULD SATISFY PROPOSED WAIVER STANDARD – AIRPEAK ALREADY HAS EXPERIENCED INTERFERENCE PROBLEM WITH WASHOE COUNTY, NV AND STATE OF NEVADA DOT. PROBLEMS RESOLVED THROUGH MUTUAL COOPERATION, BUT MAY NOT BE POSSIBLE AS AIRPEAK AND DOT CONTINUE STATEWIDE DEPLOYMENT.
- CONFIRM THAT CONSENSUS PLAN WILL PROVIDE THAT “AN INCUMBENT EA LICENSEE EMPLOYING A LOW-POWER, LOW-SITE CELLULAR (INTERCONNECTED) ARCHITECTURE, AS DEFINED IN THE CONSENSUS PLAN, SHOULD BE RELOCATED TO THE CELLULAR CHANNEL BLOCK, WITH ITS RELOCATION COSTS COVERED BY THE RELOCATION FUND.” (REPLY COMMENTS OF CONSENSUS PARTIES (FEB. 25, 2003))
- CONFIRM THAT “CELLULARIZED” IS DEFINED ON A SYSTEM-WIDE BASIS. SYSTEMS IN THE MORE RURAL AREAS SERVED BY AIRPEAK/AIRTEL, AS WELL AS THOSE SERVED BY NEXTEL, NEXTEL PARTNERS AND SOUTHERN LINC, MAY INCLUDE BOTH HIGH-SITE

AND LOW-SITE FACILITIES WITH BOTH MORE AND FEWER THAN TWENTY (20) PAIRED FREQUENCIES PER SITE, DEPENDING ON MARKET REQUIREMENT.

- CONFIRM THAT RELOCATION WILL INCLUDE SITE-SPECIFIC AS WELL AS EA LICENSES.
- CONFIRM THAT THE RELOCATION PROCESS WILL PERMIT CONTINUED OPERATION WITHOUT SYSTEM DOWNTIME OR LOSS OF CURRENT SYSTEM CAPABILITIES OR FEATURES.

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AIRTEL WIRELESS SERVICES, LLC

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