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**Ex Parte**

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Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

**Re: Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers and Other Providers of Mobile Data Services, WT Docket No. 05-265**

Dear Ms. Dortch:

On October 29, 2014, Tamara Preiss and Andy Lachance of Verizon met with Roger Sherman, Chief, Jim Schlichting, Deputy Chief, and Garnet Hanly, Kate Matraves (by telephone), and Gloria Sheu, of the Wireless Telecommunications Bureau to discuss issues in the above-referenced proceeding.

We discussed the petition for declaratory ruling filed by T-Mobile that asks the Commission to change its rules to determine the commercial reasonableness of a wireless provider's data roaming rates by reference to that carrier's retail, resale, and international and domestic roaming rates.<sup>1</sup> As Verizon previously explained, the gist of T-Mobile's petition is its allegation that AT&T has failed to make data roaming available at commercially reasonable rates, a claim that AT&T disputes. Regardless of the merits, the Commission already has established processes by which T-Mobile can pursue its complaint.<sup>2</sup> Should T-Mobile bring a complaint against AT&T, it will have the opportunity to try to demonstrate that the roaming rates offered by AT&T are unreasonable, and the same is true for any provider that believes it is unable to obtain commercially reasonable data roaming rates. These providers have no basis to challenge the adequacy of complaint proceedings if they do not avail themselves of those processes.

We also explained that the benchmarks T-Mobile seeks are neither necessary nor appropriate. Because a complaint proceeding enables a party to discover and produce evidence of roaming rates in its own and other parties' agreements, there is no need to examine retail or resale rates. Moreover, given that the FCC already rejected those rates as benchmarks for commercial reasonableness, T-Mobile's

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<sup>1</sup> Petition for Expedited Declaratory ruling of T-Mobile, USA, Inc., WT Docket No. 05-265 (filed May 27, 2014).

<sup>2</sup> See *Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers and Other Providers of Mobile Data Services*, WT Docket No. 05-265, Comments of Verizon (filed July 10, 2014), at 1-4; Reply Comments of Verizon (filed Aug. 20, 2014), at 5-9.

petition is an attempt to change the Commission's existing rules and thus cannot be addressed through a declaratory ruling.<sup>3</sup>

Finally, we discussed the policy implications of the relief T-Mobile seeks. In the *Data Roaming Order*, the Commission sought to strike a balance between facilitating data roaming and preserving providers' incentives to invest in network infrastructure. Recognizing "the possibility that requesting providers will substitute roaming for investment in coverage and accordingly under-invest in deploying new infrastructure,"<sup>4</sup> the Commission observed that "the relatively high price of roaming compared to providing facilities-based service" should offset the "incentive to 'piggy back' on another carrier's network."<sup>5</sup> Providers should continue to be free to negotiate data roaming rates that preserve incentives for network build-out. As the Cellular One Carriers explain, given the Commission's interest in deployment of broadband in rural areas, it should not "[i]mpair[] the ability of the carriers that serve such areas to negotiate fair rates...[which] can only serve to negatively impact their ability to continue to do so."<sup>6</sup>

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This letter is being filed pursuant to Section 1.1206 of the Commission's Rules. Should you have any questions, please contact the undersigned.

Sincerely,



cc: (via e-mail)

Roger Sherman  
Jim Schlichting  
Garnet Hanly

Kate Matraves  
Gloria Sheu

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<sup>3</sup> See Comments of Verizon at 4-7; see also Reply Comments of Broadpoint, LLC, Central Louisiana Cellular, LLC, and Texas 10, LLC (filed Aug. 20, 2014) ("*Cellular One Carriers Reply Comments*"), at 2 (noting "valid economic reasons" that roaming rates do not reflect the same factors as retail, resale, and foreign rates).

<sup>4</sup> *Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers and Other Providers of Mobile Data Services*, WT Docket No. 05-265, Second Report and Order, 26 FCC Rcd 5411 (2011) ("*Data Roaming Order*"), at ¶ 34.

<sup>5</sup> *Id.* at ¶ 21.

<sup>6</sup> *Cellular One Carriers Reply Comments* at 3.