



December 5, 2014

**Via ECFS**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th 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,

The purpose of this *ex parte* filing is to: (1) provide Commission staff with information regarding Rural Wireless Association, Inc.<sup>1</sup> (“RWA”) members’ roaming expenses as a percentage of the carrier’s overall operating expenses; and (2) reiterate RWA’s concerns regarding the current state of the data roaming market more broadly.

On November 19, 2014, several wireless industry stakeholders met with Commission staff regarding the T-Mobile, USA, Inc. (“T-Mobile”) Petition for Expedited Declaratory Ruling on data roaming.<sup>2</sup> In that meeting, stakeholders noted that, regardless of whether AT&T and Verizon are net payors for wholesale roaming services, they most likely pay a significantly smaller proportion of their overall operating expenses for roaming costs when compared to rural, regional and competitive providers. AT&T’s net payor claims<sup>3</sup> do not provide a full picture of roaming rates’ impact on the competitive wireless market and on rural carriers’ ability to compete. In response to Commission staff’s request for additional data on this point, RWA takes

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<sup>1</sup> The Rural Wireless Association, Inc. is a 501(c)(6) trade association dedicated to promoting wireless opportunities for rural telecommunications companies who serve rural consumers and those consumers traveling to rural America. RWA’s members are small businesses serving or seeking to serve secondary, tertiary, and rural markets. RWA’s members are comprised of both independent wireless carriers and wireless carriers that are affiliated with rural telephone companies. Each of RWA’s member companies serves fewer than 100,000 subscribers.

<sup>2</sup> See *Ex Parte* Letter from Rebecca Murphy Thompson, General Counsel, Competitive Carriers Association to Marlene H. Dortch, Secretary, FCC (filed Nov. 21, 2014).

<sup>3</sup> See *Ex Parte* Letter from Joan Marsh, AT&T, to Marlene H. Dortch, Secretary, FCC (filed Nov. 11, 2014).

this opportunity to submit to the Commission three members' wholesale roaming expenses as a percentage of each member's overall operating expenses.<sup>4</sup> (See Figure 1)

**Figure 1**

	RWA Carrier #1	RWA Carrier #2	RWA Carrier #3
Percent of Carrier's Total Operating Costs Attributable to Domestic Voice Roaming	7%	5%	8%
Percent of Carrier's Total Operating Costs Attributable to Domestic Data Roaming	11%	23%	20%
<b>Percentage of Carrier's Total Operating Costs Attributable To Domestic Roaming</b>	<b>18%</b>	<b>28%</b>	<b>28%</b>
<b>Domestic Roaming Costs - Voice</b>			
Percent of Carrier's Domestic Voice Roaming Costs Attributable to Nationwide Carrier Partners (e.g., Verizon or AT&T)	46%	95%	86%
Percent of Carrier's Domestic Voice Roaming Costs Attributable to Competitive Carrier Partners (e.g., Sprint or T-Mobile)	17%	4%	13%
Percent of Carrier's Domestic Voice Roaming Costs Attributable to Rural or Regional Carrier Partners	37%	1%	1%
<b>Voice % Paid to Major Carriers</b>	<b>63%</b>	<b>99%</b>	<b>99%</b>
<b>Domestic Roaming Charges - Data</b>			
Percent of Carrier's Domestic Data Roaming Costs Attributable to Nationwide Carrier Partners (e.g., Verizon or AT&T)	35%	94%	82%
Percent of Carrier's Domestic Data Roaming Costs Attributable to Competitive Carrier Partners (e.g., Sprint or T-Mobile)	31%	5%	17%
Percent of Carrier's Domestic Data Roaming Costs Attributable to Rural or Regional Carrier Partners	34%	1%	1%
<b>Data % Paid to Major Carriers</b>	<b>66%</b>	<b>99%</b>	<b>99%</b>
<b>Percent of Carrier's Total Domestic Roaming Costs (Voice + Data) Attributable to ONLY Nationwide Carrier Partners (e.g., Verizon or AT&amp;T)</b>	<b>39%</b>	<b>95%</b>	<b>83%</b>
<b>Percent of Carrier's Total Domestic Roaming Costs (Voice + Data) Attributable to ONLY Nationwide Carrier Partners (e.g., Sprint or T-Mobile)</b>	<b>26%</b>	<b>5%</b>	<b>17%</b>

<sup>4</sup> Other operating expenses a carrier faces in addition to roaming include, but are not limited to: (1) network installation, maintenance and repair expenses; (2) network access expenses; (3) depreciation and amortization; (4) sales and commercial expenses; (5) marketing and advertising expenses; and (6) human resource, administrative and overhead expenses.

The fact that such a significant percentage of a rural carrier's monthly operating expenses is earmarked to pay for roaming services (at rates that are often *significantly higher* than prevailing retail rates for the exact same services) means that rural carriers spend less on equally crucial operating expenses such as advertising, marketing, sales and customer care and, perhaps most importantly, routine network maintenance and upgrades. As RWA has stated on numerous occasions, rural carriers are often faced with two equally debilitating options when they pay commercially unreasonable rates for off-network roaming. A rural carrier can pass along the high wholesale roaming rates to its subscribers, but will eventually price itself outside of the country's nationwide carriers because most consumers are price sensitive. Alternatively, and more prevalent today, a rural carrier can "eat" the cost of off-network wholesale roaming access (an amount that comprises a large percentage of its overall monthly operating expenses), but must spend proportionally less on other equally important cost centers.

Put differently, all wireless carriers – large or small – incur marketing, network enhancement and personnel costs. But, for small and rural carriers, the percentage of operating expenses directed towards "must have" nationwide roaming access is vastly larger than for nationwide carriers. Commercially unreasonable data roaming rates are forcing rural carriers to consider leaving the market or discontinue services to subscribers, are delaying carriers' deployment of new infrastructure and services to rural America, and will eventually result in higher retail rates for rural consumers. As such, RWA supports T-Mobile's petition seeking Commission clarification regarding the criteria used to determine whether the rates, terms and conditions of any given data roaming agreement are "commercially reasonable."

As it has stated in previous filings,<sup>5</sup> RWA supports the underlying intent of the four benchmarks proposed by T-Mobile, but believes the Commission should go further and be more specific as to what constitutes a commercially reasonable wholesale data roaming rate. In particular, the Commission should: (1) clarify that to be "commercially reasonable," wholesale data roaming rates must be at, or below, retail data rates; (2) find that certain terms and conditions such as restrictions on mobile virtual network operators ("MVNOs"), data monitoring and machine-to-machine services, and the requirement that roaming traffic be incidental to a requesting carrier's in-network traffic, are *per se* commercially unreasonable; (3) require all carriers to confidentially file their data roaming agreements with the Commission; (4) endorse the *RWA Model Agreement*, which allows for bilaterally negotiated rates, terms, and conditions; (5) clarify that a carrier may not deny roaming to a requesting carrier if the requesting carrier has built-out licenses in accordance with applicable build-out requirements; and (6) reconsider its presumption that the rates, terms and conditions of executed agreements are commercially reasonable.

Defining and encouraging the timely and transparent implementation of "commercially reasonable" data roaming arrangements on nationwide carriers' LTE networks is one of the most important tasks for the FCC and one of the most important issues for RWA's carrier members.

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<sup>5</sup> *In the Matter of Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers and Other Providers of Mobile Data Services*, WT Docket No. 05-263, Comments of Rural Wireless Association, Inc. (July 10, 2014); Reply Comments of Rural Wireless Association, Inc. (Aug. 20, 2014).

Access to *truly* “commercially reasonable” wholesale data roaming rates is the key to competition in the mobile broadband marketplace. Without it, rural carriers that offer their customers nationwide services will eventually cease to exist, and consumers will bear the consequences.

Pursuant to Section 1.1206 of the Commission’s Rules, this letter is being filed electronically with the Office of the Secretary.

Sincerely,

/s/ Daryl A. Zakov

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