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December 4, 2014

**Via ECFS**

Ms. Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

**Re: EX PARTE NOTICE**

*Roaming Obligations of Commercial Mobile Radio Service Providers*  
WT Docket No. 05-265

Dear Ms. Dortch:

This letter summarizes the ex parte presentations separately made on December 1, 2014 to the following commissioners' advisors: Renee Gregory, David Goldman, Louis Peraertz, Brendan Carr, and Erin McGrath. The presentations were made by the undersigned, Brian Gelfand, CEO of Buffalo-Lake Erie Wireless Systems, LLC ("Blue Wireless"), and John Goocher, a strategic consultant to Blue Wireless.

Our presentations emphasized the importance of prompt and favorable action on T-Mobile's pending Petition for Declaratory Ruling on Data Roaming Rates. We explained that small regional carriers like Blue Wireless are in an unfair competitive posture vis a vis the two largest carriers who generally have no need to roam and therefore no economic incentive to negotiate or offer commercially reasonable roaming rates. In fact, since high roaming rates cripple or even completely block the ability of smaller carriers to offer roaming to their customers and thus to offer them a competitive product, the largest carriers have strong economic incentives *not* to offer reasonable roaming rates. The continuing consolidation of the industry through the acquisition of regional and medium-sized carriers by the Big Two is both a cause and effect of high roaming rates. In many cases, small carriers literally have no alternative to roaming on one of the Big Two – other than not roaming at all. So dominant are the Big Two in their respective CDMA and GSM kingdoms that they constitute true economic monopolies. In the face of this abject market failure, regulatory intervention is needed.

We cited the example of Israel, where the dominant carriers are required to make roaming available to competing carriers at rates that are less than both their retail rates and the wholesale rates offered to MVNOs for the same services. While a similar TELRIC based rate regulation scheme would certainly lower the rates here to reasonable levels, a simpler, more easily managed alternative is to use the benchmarks proposed by T-Mobile to ensure that rates are at least in the ballpark of reasonableness. Certainly the benchmark of retail rates offered by a carrier provide a readily verifiable ceiling for what might be considered reasonable, with appropriate discounts or special circumstances subject to negotiation. The T-Mobile approach can also be accomplished within the confines of the Commission's current non-Title II approach to data roaming regulation.

We also emphasized that small carriers are not piggy-backing on the build-outs of others. They have built out their markets and can provide service most economically over their own facilities rather than paying for their customers to roam on others. Small carriers only have spectrum rights in limited geographic areas, however, so if their customers are to enjoy the benefits of being able to access voice and data nationwide, as the Commission has always envisioned for its mobile services, there must be reasonable roaming. Even qualifying "home roaming" rights to eliminate the piggy-back issue would be better than having no reasonable roaming at all.

We noted that while complaints are available as a means of redress, T-Mobile's Declaratory Ruling Request provides a relatively quick vehicle for setting some guidelines that will apply to the entire industry, including T-Mobile itself.

Approval of the T-Mobile Petition would help Lifeline customers by making it more possible for them to have access to mobile data while roaming. This customer group particularly relies on local stores for their communications needs, and the majors have very few brick and mortar stores in our service areas. The number of carriers offering Lifeline has also been reduced to one or two in our markets, making it all the more important that the remaining Lifeline providers be able to offer some form of data roaming.

We also noted that transparency of roaming rates would go a long way toward disciplining roaming rates, something which is not proposed in T-Mobile's petition but which has been suggested elsewhere in a petition for rulemaking in this Docket and RM -11723. Again, transparent rates could be accomplished without disturbing the current "information service" paradigm applicable to data roaming.

Respectfully submitted,

Buffalo-Lake Erie Wireless Systems, LLC

By: \_\_\_\_\_  
Donald J. Evans  
Its Counsel

cc (via email): Renee Gregory  
Louis Peraertz  
David Goldman  
Brendan Carr  
Erin McGrath