

October 30, 2015

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

Re: *Flat Wireless, LLC v. Cellco Partnership d/b/a Verizon Wireless*, EB
Docket No. 15-147, File No. EB-15-MD-005

Dear Ms. Dortch:

Flat Wireless, LLC (“Flat”) and Cellco Partnership d/b/a Verizon Wireless (“Verizon”) (jointly, “the parties”) hereby attach confidential and public versions of their Joint Statement of Stipulated Facts, Disputed Facts and Key Legal Issues raised in the above-referenced proceeding.

The parties met by phone and exchanged emails to discuss settlement prospects, discovery requests, narrowing of issues raised in the dispute, and scheduling of pleadings. With respect to settlement prospects, the parties agree that there is a possibility that a settlement can be reached with respect to voice roaming rates. However, given the disparate views of the parties with respect to data roaming, there does not appear to be a likelihood of settling the data roaming dispute. Verizon renewed its previous offer to settle this dispute by offering the same rates to Flat that are ultimately ordered by the Commission or otherwise agreed to by the parties in *NTCH, Inc. v. Cellco Partnership d/b/a Verizon Wireless*, EB Docket No. 14-212, File No. EB-13-MD-006 (“*NTCH v. Verizon Complaint*”). But that offer was again rejected by Flat on grounds that the complainants are different entities with different needs and objectives.

With respect to discovery, the parties previously agreed to provide discovery information consistent with the Enforcement Bureau’s discovery rulings in the similar *NTCH v. Verizon Complaint*. The parties have provided each other the agreed to information. No other discovery agreements were reached.

With respect to narrowing issues in the dispute, Verizon and Flat discussed whether the parties could agree to dropping Flat’s objection to the Singer Declaration and updated Opposition to Interrogatories if Flat were given more time to respond to the analysis in the Singer Declaration. But the parties were unable to reach an agreement.

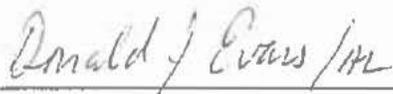
Finally, with respect to scheduling of pleadings, the only additional pleadings about which the parties are aware at this time are Verizon’s Answer to Flat’s request for damages, Verizon’s opposition to Flat’s requested additional interrogatory, and, if required, Flat’s response to the Singer Declaration. The need for and timing of those pleadings depend on how the Bureau rules on pending motions. The parties request a reasonable amount of time to file these pleadings, as appropriate, once the Bureau acts on

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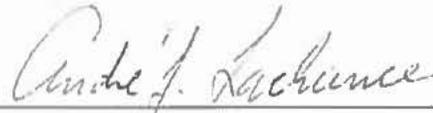
the pending motions. The parties also reserve the right to request additional briefing should the need for briefing arise during the course of the proceeding.

For the reasons discussed in Flat's complaint and in Verizon's Answer, the Parties hereby request confidential treatment of information provided in the attached Joint Statement marked as "Confidential" well as information designated "[BEGIN CONFIDENTIAL]" and "[END CONFIDENTIAL]." Accordingly, these materials may be used and disclosed solely in accordance with the limitations and procedures of 47 C.F.R. §§ 1.731(b)-(e).

Respectfully submitted,



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cc: Rosemary McEnery
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Adam Suppes

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

In the Matter of)	
)	
Flat Wireless, LLC, for and on behalf of its Operating Subsidiaries)	EB Docket No. 15-147 File No. EB-15-MD-005
)	
Complainant)	
)	
v.)	
)	
Cellco Partnership d/b/a Verizon Wireless, and its Operating Subsidiaries)	
)	
Defendant)	

JOINT STATEMENT OF FLAT AND VERIZON

Joint Statement of Stipulated Facts

1. Flat Wireless, LLC (“Flat”) has had a voice roaming agreement with Verizon Wireless (“Verizon”) since August 16, 2011, with reciprocal roaming rates of [BEGIN

CONFIDENTIAL] [REDACTED]

[REDACTED] [END CONFIDENTIAL]

2. The parties began negotiating a revised roaming agreement in January, 2015. At all times during the negotiations, Verizon responded promptly to offers, correspondence and phone calls from Flat.

3. The parties have been unable to reach an agreement on voice and data roaming rates.

Flat’s latest request is for voice roaming at [BEGIN CONFIDENTIAL] [REDACTED]

[REDACTED]

Redacted – For Public Inspection

[REDACTED] [END CONFIDENTIAL]. Verizon's proposal is for [BEGIN CONFIDENTIAL] [REDACTED]

[REDACTED]

[REDACTED] [END CONFIDENTIAL]

4. During the course of negotiations, the following offers, counter-offers and significant exchanges were made by the parties:

- In January, 2015, Flat asked Verizon for a new roaming agreement. On February 11, 2015, Verizon proposed roaming rates of [BEGIN CONFIDENTIAL] [REDACTED]
[REDACTED] [END CONFIDENTIAL]
- On February 12, 2015, Flat countered, stating it could live with Verizon's proposed data rates, but proposed lower – [BEGIN CONFIDENTIAL] [REDACTED]
[REDACTED] [END CONFIDENTIAL]
- On February 18, 2015, Verizon proposed voice rates of [BEGIN CONFIDENTIAL]
[REDACTED] [END CONFIDENTIAL]
- On February 19, 2015, Flat rejected Verizon's voice proposal and said that it mistook Verizon's per MB data roaming rate proposal as [BEGIN CONFIDENTIAL] [REDACTED]
[REDACTED] [END CONFIDENTIAL], and threatened to file a formal complaint against Verizon.
- Verizon responded that its offer was commercially reasonable and consistent with the rates it was seeing in the marketplace.
- Flat sent Verizon a letter on March 17, 2015 notifying Verizon that Flat intended to file complaint. In response, Verizon sent an email reaffirming the company's position that its roaming rate offers were reasonable. Flat then filed its formal complaint on June 12, 2015.

¹ Throughout the negotiations Flat has used gigabytes (GB) as its preferred unit of measurement for data roaming pricing, while Verizon has used megabytes (MB). For comparison sake in this document, the parties offer conversions from one unit to the other. However, these conversions are for comparison sake only. Some minor rounding or immaterial discrepancies may occur.

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2. Whether Verizon's rate offer for data services covered by the Data Roaming Order and Section 20.12(e) of the Commission's rules is commercially reasonable.
3. Whether retail rates offered by Verizon to its own customers, are relevant to determining whether voice roaming rates offered by Verizon to Flat are just and reasonable and whether data roaming rates offered by Verizon are commercially reasonable.
4. Whether rates, terms and conditions offered by Verizon to MVNOs are relevant to determining whether voice roaming rates offered by Verizon to Flat are just and reasonable and whether data roaming rates offered by Verizon are commercially reasonable.
5. Whether Verizon's cost of providing roaming services is relevant to determining whether voice roaming rates offered by Verizon to Flat are just and reasonable and whether data roaming rates offered by Verizon are commercially reasonable.

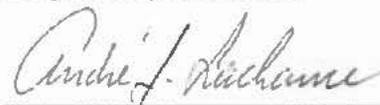
Other Legal Issues Raised by Flat²

1. If Verizon bears the burden of demonstrating a reasonable basis for the differences in rates to different carriers, has it met that burden?
2. Whether the Commission may lawfully forbear from Sections 201 and 202 of the Communications Act.
3. Whether Verizon's data roaming rates to different carriers reasonably reflect actual differences in particular cases.
4. Whether Verizon's roaming rates reflect conduct that unreasonably restrains trade and is therefore commercially unreasonable on that basis.
5. Whether the Commission should order that Verizon make its roaming rates public.

² This list consists of legal issues raised by Flat but that Verizon does not agree are the key issues presented by or properly decided in this dispute.

Kathleen M. Grillo
Of Counsel

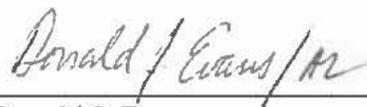
Respectfully submitted,



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