

October 1, 2004

Electronic Filing

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW, Room TW-A325
Washington, D.C. 20554

Re: **EX PARTE**
WT Docket No. 04-70

Dear Ms. Dortch:

T-Mobile USA, Inc. (“T-Mobile”) submits in the above-referenced proceeding its response to the “Talking Points” attached to multiple *ex parte* notices of meetings with the Commissioners and their staff by Public Service Communications, the National Telecommunications Cooperative Association, and the Organization for the Promotion and Advancement of Small Telecommunications Companies (collectively, “PSC”).¹ PSC improperly requests the Commission to impose conditions upon T-Mobile’s roaming activities. The *ex partes*, as they pertain to T-Mobile, are procedurally defective and factually baseless and should be rejected.

As an initial matter, the *ex partes* were filed in the proceeding to consider certain license transfer of control applications filed by Cingular Wireless Corporation (“Cingular”) and AT&T Wireless Services, Inc. (“AWS”). Because T-Mobile is not an applicant in that proceeding, the Commission cannot properly impose conditions upon T-Mobile in connection with its review of the Cingular/AWS transfer of control applications. Accordingly, the Commission must reject PSC’s request that the Commission impose regulatory requirements on T-Mobile’s roaming practices. To the extent PSC asks the Commission to change its oversight of roaming practices in the wireless industry, it should raise the issues in the pending rulemaking proceeding addressing wireless roaming issues (WT Docket No. 00-193).²

In light of the fatal procedural deficiencies of PSC’s requests that the Commission impose conditions on T-Mobile, a substantive response to the issues raised in the *ex partes* is not required. Nevertheless, in the interest of clarification, T-Mobile responds briefly to certain

¹ See Letter from Michael K. Kurtis, Counsel, PSC, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 04-70 (filed Sept. 27, 2004) (“PSC Sept. 27 *Ex Parte*”); Letters from Michael K. Kurtis, Counsel, PSC, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 04-70 (filed Sept. 7, 8, and 9, 2004) (“PSC Sept. 7-9 *Ex Partes*”).

² See *Automatic and Manual Roaming Obligations Pertaining to Commercial Mobile Radio Services*, Notice of Proposed Rulemaking, 15 FCC Rcd 21628 (2000).



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For the foregoing reasons, the Commission should reject PSC's proposal to impose roaming restrictions on T-Mobile. Pursuant to Section 1.1206(b) of the Commission's rules, an electronic copy of this letter is being filed.

Respectfully submitted,

/s/ Thomas J. Sugrue

Thomas J. Sugrue
Vice President, Government Affairs

cc :	Jennifer Manner	Sam Feder	David Furth
	Barry Ohlson	John Muleta	Scott Delacourt
	Sheryl Wilkerson	Kathy Harris	Martin Perry
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