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March 3, 2005

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

**Re: CGB Docket No. 04-208**

Dear Secretary Dortch:

On March 3, 2005, Thomas Sugrue of T-Mobile USA, Inc., Luisa Lancetti of Sprint Corporation, and the undersigned met with Paul Margie, Legal Advisor to Commissioner Michael Copps, to discuss the petition for declaratory ruling filed by the National Association of State Utility Consumer Advocates ("NASUCA"). The discussion was consistent with the comments filed by T-Mobile and Sprint in the above-referenced docket. The attached document was distributed at the meeting.

Please contact the undersigned if you have any questions regarding this matter.

Respectfully submitted,

/s/

Sara F. Leibman

cc: Paul Margie

... T ... Mobile ...



**T-Mobile Ex Parte  
CG Docket 04-208**

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## T-Mobile's Award Winning Customer Service



- T-Mobile was ranked **No.1 in Customer Satisfaction** among all wireless carriers from J.D. Power and Associates (09/04)
- **Highest Overall Retail Sales Customer Satisfaction** among the top-seven largest wireless providers (10/04)
- **Highest Call Quality Customer Satisfaction** among cell phone users\* (8/04)
- **Highest Customer Care Performance** among the top seven largest wireless providers (7/04)

*\* T-Mobile was stand-alone winner in two regions for Call Quality and above industry average in all six regions..*



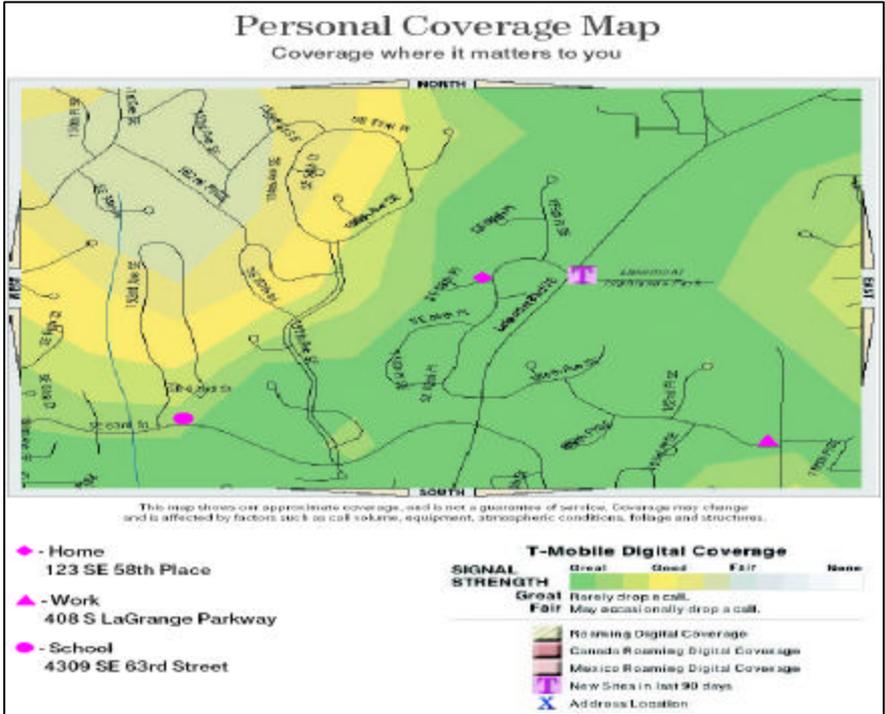
## What Relevance Do the JD Power Awards Have to the NASUCA Petition?

- **Competition drives customer service**
- **Success in the marketplace depends on customer satisfaction**
- **Competition forces carriers to provide consumers with better service**
- **Regulation is not necessary to ensure that carriers strive to improve performance in all areas affecting consumer satisfaction**



## T-Mobile's Voluntary Measures

- T-Mobile sales agents are directed to share with potential customers localized (home, work, school) coverage quality maps
- “Personal Coverage Check” (“PCC”) is driven by competition – not regulatory mandates





## The FCC Should Deny NASUCA's Request

- As a matter of law, the declaratory relief sought by NASUCA cannot be granted
- NASUCA's request is contrary to current FCC policy
- FCC has declined to prescribe how carriers may recover their regulatory costs
- Sections 332(c)(1) and 10 dictate that competitive industries should be regulated with a light hand
- Line items recover costs of programs that consumer groups asked FCC to mandate
- Line items are described accurately
  - “Taxes, Fees and Surcharges – This section includes applicable federal, state and local taxes, fees and surcharges that have been imposed on you or us for your service. We collect these taxes, fees and surcharges and, unless otherwise noted, remit them to the appropriate government entity.”
  - “Universal Service assessments – Although not taxes or government assessments imposed directly on the customer, these charges recover contributions we make to federal and state funds related to universal service. These funds generally support telecommunications services in high-cost areas, for low-income customers, or for specialized users such as schools and rural health care providers.”
  - “Regulatory Programs Fee – We elect to collect and retain this Fee to help recover a portion of our costs incurred to satisfy certain federal government mandates and programs related to customers, including, without limit, wireless number pooling, local number portability and E911.”
- Carriers do compete: T-Mobile was the last to impose the RPF and charged less than most competitors. Verizon and Sprint are reducing these fees now.



## **NASUCA'S PROPOSAL IS NOT IN THE PUBLIC INTEREST**

- **Jeopardizes ability of carriers to offer national rates**
- **Would require averaging of “non-mandated” state and local taxes, fees, assessments, and regulatory costs across all jurisdictions or adoption of localized rates**
- **Averaging could force rural customers to pay taxes and fees imposed by cities**
- **De-averaging could result in increased rates in rural areas to reflect higher costs of service**
- **Localized rates require patchwork quilt of billing practices and prevent national advertising**



## **Most State Regulation of Wireless Line Items Is Prohibited Rate Regulation**

- **Term “rates charged” in Section 332(c)(3)(A) includes both “rate levels and rate structures”**
- **Cost recovery charges are part of carrier’s rate structure -- restrictions on line items requires adjustment of other rates**
- **Under FCC’s MN amicus brief standards, line item regulation is not permissible “other terms and conditions” regulation**
- **State restrictions would result in less transparency for consumers**



## State Cost Recovery Rules Conflict with National Deregulated Framework

- Act directs FCC to regulate CMRS federally and to lessen oversight as competition develops
- Preemption warranted if regulation impedes exercise of federal authority over interstate communications
- FCC has preempted state VoIP regulation that conflicts with federal deregulatory policies
- FCC cost recovery rules should occupy the field
- If federal cost recovery rules unwarranted, no need for state rules



## States Are Racing To Regulate Wireless Services

- **New CA consumer “bill of rights” has 13 rules with 75 sub-provisions**
- **MN wireless bill establishes waiting periods and customer approval requirements**
- **Wireless legislation introduced in NY allows cancellation of service for any reason without any fees**
- **NM’s proposed rules devote 3 pages to deposits**
- **Many state courts believe they have jurisdiction over lawsuits challenging wireless early termination fees**
- **T-Mobile has begun extensive changes to nationwide billing and service activation systems to accommodate CA’s new rules**
- **As more states adopt conflicting regulatory regimes, wireless carriers will be unable to comply**