

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of

Reexamination of Roaming Obligations of  
Commercial Mobile Radio Service Providers

WT Docket No. 05-265

**Comments of ACS Wireless, Inc.**

ACS Wireless, Inc. (“ACS”), through counsel, hereby submits its initial Comments in response to the Notice of Proposed Rulemaking in the above-captioned proceeding.<sup>1</sup>

**I. Introduction and Summary**

The wireless telecommunications industry has made great strides in providing seamless and pervasive wireless voice services to customers throughout the United States. This has been achieved through the widespread implementation of automatic roaming agreements by Commercial Mobile Radio Service (“CMRS”) providers. Unfortunately, the availability of wireless data service is not as prevalent as wireless voice service. This is due, in part, to the failure of the market to create incentives for CMRS carriers who offer mobile data service to enter into automatic roaming agreements. The scarcity of automatic wireless data roaming agreements has left many consumers with significant lapses in their wireless data coverage. As more American consumers seek out and purchase mobile wireless data devices and services, it is

---

<sup>1</sup> *Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers*, Notice of Proposed Rulemaking, WT Docket No. 05-265, FCC 05-160 (rel. Aug. 31, 2005).

critical that they be able to access data on a ubiquitous basis. It is inequitable to deny consumers the access to information and telecommunications capability that they require, simply because some CMRS service providers decline to enter into automatic roaming agreements. Because market forces have failed to ensure that consumers have mobile wireless data services that are easily accessible at all locations, ACS requests that the Commission institute rules that will promote automatic mobile wireless data roaming throughout the United States.

## **II. ACS's Efforts to Facilitate Wireless Roaming**

ACS is a leading wireless communications provider in Alaska, offering wireless and Internet service to business and residential customers throughout Alaska. ACS is one of only two state-wide facilities based broadband CMRS carriers in the state of Alaska. ACS provides voice and mobile broadband data capability using code division multiple access (CDMA) and EV-DO technologies and its cellular and personal communications system licenses covering the entire state. There are no national CMRS voice carriers with a retail presence in Alaska.

Because Alaska is remote and rural in many respects, Alaska residents often depend on travel to the contiguous United States to address a variety of business and personal matters. When they travel outside the confines of the state of Alaska, these consumers deserve to have access to their mobile broadband wireless data service without being burdened by additional fees or significant interruptions in service. Moreover, millions of people visit Alaska every year to conduct business and to visit Alaska's bustling tourist attractions. These consumers should also have access to their mobile broadband wireless data services while traveling inside Alaska. Unfortunately, the current market does not provide for such seamless mobile broadband data service for travelers in and out of Alaska and many other rural areas of

the United States. Many consumers are forced to sacrifice their wireless data service when they leave their home networks.<sup>2</sup>

The advent of automatic roaming has proven to be a successful solution with respect to wireless voice communications in Alaska and other rural and remote areas. The widespread use of automatic roaming agreements for wireless voice communications throughout the telecommunications industry has enabled Alaska residents to travel to and from Alaska without suffering disruption in their wireless voice service. Correspondingly, consumers are able to easily travel from the contiguous United States to Alaska while maintaining uninterrupted wireless voice coverage free of additional fees. Greater consumer access to widespread wireless voice services at a reasonable cost has been made possible by the successful negotiation of automatic roaming agreements between CMRS providers.<sup>3</sup>

The process of negotiating automatic roaming agreements for mobile broadband wireless data services has not been as successful. There has been an significant increase in demand for mobile broadband wireless data services in Alaska and throughout the Nation, because of this technology's substantial advantages for all consumers—ranging from first responders, such as police and fire rescue to real estate agents, construction contractors and all consumers who want to take their email and Internet access with them when they are on the go. ACS has responded to this demand by expanding its mobile broadband wireless network in Alaska and providing the most up-to-date mobile broadband wireless data service available in the current market. ACS has established an enhanced CDMA and EV-DO wireless voice and mobile broadband data network that provides the best voice quality, fastest wireless data speeds,

---

<sup>2</sup> See Comments of Rural Cellular Association, *Application for the Transfer of Control of Licenses and Authorizations from Nextel Communications, Inc. and its subsidiaries to Sprint Corporation*, WT Docket No. 05-63 (Mar. 29, 2005) (“RCA Sprint-Nextel Comments”).

<sup>3</sup> See 47 CFR § 20.12 (mandating manual roaming only).

greatest security through its coding, and global positioning system (GPS) location capabilities.

ACS's CDMA-based 1xRTT service achieves peak data speeds that are several multiples of the speed achieved via dial-up service. ACS recently negotiated one automatic roaming agreement with a national carrier allowing ACS customers to access their 1xRTT data service outside Alaska, and allowing customers of the other carrier to roam on ACS's network in Alaska.<sup>4</sup>

ACS has, however, widely deployed the next generation in wireless data service, EV-DO. EV-DO speeds peak at more than two megabits per second (mbps), and EV-DO provides consumers with the fastest and most complete wireless data service in the market today. ACS has developed one of the most comprehensive EV-DO coverage areas in the United States by providing EV-DO coverage where the vast majority of its subscribers live and work. Although at least two national carriers have developed EV-DO networks, ACS has been unable to enter any roaming agreement negotiations relating to EV-DO service. ACS has reached out to other providers in an effort to create comprehensive and seamless service for EV-DO customers, but other EV-DO capable carriers have refused to entertain any proposals for roaming agreements. This is despite the fact that ACS does not market its service outside Alaska, and neither of these carriers markets service in Alaska. Thus, although ACS customers are able to reap the substantial benefits of EV-DO technology in many areas throughout Alaska, including all of Alaska's major markets, those customers will not have the benefit of such service when they leave their home network. Likewise, consumers who enjoy the benefits of mobile broadband wireless services, such as EV-DO, offered by providers in other states are unable to access their data when they travel to Alaska.

---

<sup>4</sup> *Alaska Communications Systems Expands Wireless Coverage Area*, Press Release, Nov. 15, 2005, available at <http://www.acsalaska.com/aboutACS/releases/index.stm>.

### **III. Market's Failure to Move Toward the Provision of Ubiquitous Wireless Data Service**

There is a lack of market-driven incentives sufficient to encourage expansion of, and the comprehensive provision of, wireless data service. This unfortunate phenomenon can be attributed to a variety of factors. First, EV-DO and similar data services use a substantial amount of spectrum. While there is no shortage of spectrum in Alaska, there are certain areas throughout the country where spectrum is difficult to acquire. Many carriers in these areas are unwilling, at this juncture, to share such a precious commodity, even if it is ultimately at the expense of the consumers' needs and desires to access universal data service. Furthermore, large telecommunication providers who have invested significant amounts of capital into developing and marketing new wireless data technologies, such as EV-DO, are reticent to allow other carriers' customers to reap the benefits of their niche in the market. Large national carriers have the capacity to provide near ubiquitous access to wireless data networks, and they are leaving customers of smaller carriers without the benefits of those networks.<sup>5</sup> Furthermore, although large national carriers may rationally decline to negotiate with small carriers with whom they have a service area overlap, there appears to be no rational basis for the refusal of large national carriers to negotiate with providers, like ACS, that have no overlap in service area.

Although the telecommunications industry has successfully self-regulated automatic roaming in the area of wireless voice communications, it has not taken any corollary measures with respect to mobile broadband data roaming. Automatic roaming for wireless voice services is now commonplace, largely because industry groups promoted such measures and carriers, national and small, alike, willingly entered into automatic roaming agreements. These

---

<sup>5</sup> See RCA Sprint-Nextel Comments at 2 (noting that "national carriers may exercise their new found market power to refuse to enter into reasonable roaming agreements with smaller carriers. Consumers will be denied access to signals outside their home areas.").

efforts created parity among carriers, and ensured ubiquitous access for consumers to wireless voice service throughout the Nation. CMRS carriers and industry groups have been much slower to respond to consumers demands for automatic mobile broadband data roaming. This industry failure leaves consumers and rural and remote carriers with few, if any, options for receiving and providing pervasive mobile wireless broadband data service.<sup>6</sup>

#### **IV. Proposed Commission Actions**

All CMRS customers, whether they are subscribers of a national carrier or a rural provider, should have comparable access to data roaming capabilities. Because the industry has failed to self-regulate, and because national carriers that have more significant wireless data capabilities appear to lack the incentive to negotiate these agreements for the benefit of consumers, the Commission should step in and take necessary action. ACS encourages the Commission to adopt measures that will mandate automatic wireless data roaming among CMRS providers. ACS proposes that such measures include provisions that will require providers to enter into automatic roaming agreements with other carriers who offer similar broadband CMRS data services. Providers should be required to enter into roaming agreements governing the highest level of wireless data service they provide. Such a requirement will promote competition and will thwart efforts of carriers to gouge other providers in negotiating the terms of such roaming agreements.

ACS further requests that the Commission establish a regulatory complaint process whereby affected customers and providers will have the ability to initiate actions when they are

---

<sup>6</sup> See Lamar County Cellular, Inc. Reply to Joint Opposition to Petitions to Deny and Comments, *Applications of Western Wireless Corporation, Transferor, and ALLTEL Corporation, Transferee*, WT Docket No. 05-50, (March 28, 2005) at 5 (noting that “rural and small carriers, who need to enter into roaming agreements to survive, cannot continue to be held hostage at the whim of larger national carriers with respect to whether such carriers will or will not enter into a roaming agreements and on what terms”).

denied the ability to roam (in the case of customers) or enter into roaming agreements (in the case of providers). ACS suggests that the Commission adopt a finite timetable for the proposed complaint process, to ensure the needs of customers and carriers are addressed as quickly as possible. ACS believes that the complaints relating to these matters can be addressed and resolved within ninety (90) days of the receipt of such complaint.

## **V. Conclusion**

We are behind as a nation in making advanced data services available on a truly mobile basis. Broadband data is the latest mobile wireless technology to be commercially available, yet it is not yet universally available to all Americans, especially those in remote and rural areas. Because the wireless industry is not prepared, or willing, to take the proactive steps necessary to ensure widespread data connectivity throughout the nation, the Commission should press forward toward ubiquitous automatic wireless roaming for data services. As the Commission considers what steps it should take with respect to CMRS roaming obligations, ACS urges the Commission to adopt measures that will ensure CMRS providers are working together to provide widespread access to the latest wireless data technology available.

Respectfully Submitted,

ACS WIRELESS, INC.

Leonard A. Steinberg  
General Counsel  
ALASKA COMMUNICATIONS SYSTEMS  
GROUP, INC.  
600 Telephone Avenue, MS 65  
Anchorage, AK 99503  
(907) 297-3000

*/s/ Karen Brinkmann*  
Karen Brinkmann  
Jessica W. Hafer  
LATHAM & WATKINS, LLP  
555 Eleventh Street, N.W., Suite 1000  
Washington, D.C. 20004  
(202) 637-2200

*Its Attorneys*

November 28, 2005