Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Reexamination of Roaming Obligations of	)	WT Docket No. 05-265
Commercial Mobile Radio	)	
Service Providers	)	
	)	

To: The Commission

COMMENTS OF THE RURAL TELECOMMUNICATIONS GROUP, INC. AND THE ORGANIZATION FOR THE PROMOTION AND ADVANCEMENT OF SMALL TELECOMMUNICATIONS COMPANIES

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Executive Summary

The Rural Telecommunications Group, Inc. ("RTG") and the Organization for the Promotion and Advancement of Small Telecommunications Companies ("OPASTCO") respectfully request that the Commission mandate automatic roaming in rural areas and establish rules to ensure that small, rural carriers are able to enjoy the same fair, roaming arrangements that large CMRS carriers share with one another. The current CMRS market for roaming, while robust among large carriers, is no longer competitive where smaller, rural carriers are providing service. In rural regions, large carriers have been able to abuse their overwhelming market power, forcing rural carriers into roaming agreements that are little more than contracts of adhesion where rural carrier customers must pay an unreasonable premium to roam on a nationwide network, and where nationwide carriers often pay less than the rural carrier's costs for the nationwide carriers' customers to roam on the rural network. In urban and suburban regions, large carriers' roaming agreements are reciprocal and bear some relationship to the carriers' costs. However, such agreements are not generally available to smaller, rural carriers in rural areas where nationwide carriers have an overwhelming market advantage.

Unprecedented consolidation in the CMRS industry has left rural carriers with a decreasing number of roaming partner options. Since rural CMRS consumers rely on roaming to a greater extent than urban and suburban consumers, they demand automatic and seamless roaming. Nationwide carriers providing service in rural regions know that rural consumers' roaming options are limited and they exploit this fact, going so far as to deny their own customers access to rural networks. Mandated automatic roaming will prevent large CMRS carriers from denying consumers access to vital communications

services in rural regions. Further, using roaming agreements between large carriers operating in a competitive roaming environment as models for nationwide/rural roaming agreements will ensure that rural consumers pay roaming rates that are fair and reasonable, not rates based on an abuse of market power.

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The Rural Telecommunications Group, Inc. ("RTG"),[1] by its attorneys, and the Organization for the Promotion and Advancement of Small Telecommunications Companies ("OPASTCO"),[2] hereby submit comments in response to the Federal Communications Commission's ("FCC" or "Commission") *Notice of Proposed Rulemaking* ("*Notice*") seeking comment on whether the Commission's current rules

[1] RTG is a Section 501(c)(6) trade association dedicated to promoting wireless opportunities for rural telecommunications companies through advocacy and education in a manner that best represents the interests of its membership. RTG's members have joined together to speed the delivery of new, efficient, and innovative telecommunications technologies to the populations of remote and underserved sections of the country. RTG's members provide wireless telecommunications services, such as cellular telephone service and Personal Communications Services, among others, to their subscribers. RTG's members are small businesses serving or seeking to serve secondary, tertiary, and rural markets. RTG's members are comprised of both independent wireless carriers and wireless carriers that are affiliated with rural telephone companies.

[2] OPASTCO is a national association representing more than 560 small telecommunications carriers serving rural areas of the United States. Its members, which include both commercial companies and cooperatives, collectively serve over 3.5 million consumers. All of its members are "rural telephone companies" as defined in 47 U.S.C. §153(37). Nearly one half of OPASTCO's members provide some type of wireless service.

regarding roaming requirements applicable to Commercial Mobile Radio Service ("CMRS") providers should be modified given the current conditions of the CMRS market.[3] Specifically, RTG and OPASTCO urge the Commission to adopt an automatic roaming requirement for rural areas, as well as measures to ensure that roaming agreements do not discriminate against small CMRS carriers that do not enjoy the overwhelming market power of the rapidly consolidating nationwide CMRS carriers. In support hereof, RTG and OPASTCO provide specific examples of the abuse of market power by nationwide carriers and how this harms the rural consumer.

I. Introduction

The CMRS industry is experiencing unprecedented consolidation. Market consolidations and mergers among CMRS providers[4] have reduced the number of competitive CMRS options both for consumers and for small, rural CMRS providers seeking roaming partners. Further, the recent FCC approval of the license transfer applications filed in connection with the mergers of SBC Communications Inc. ("SBC") with AT&T Corp. ("AT&T") and Verizon Communications Inc. ("Verizon") with MCI,

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[3] *In re Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers*, WT Docket No. 05-265, *Automatic and Manual Roaming Obligations Pertaining to Commercial Mobile Radio Services*, WT Docket No. 00-193, Memorandum Opinion & Order and Notice of Proposed Rulemaking, FCC -5-160 (August 31, 2005) ("*Notice*").

[4] *See, e.g., in re Applications of AT&T Wireless Services, Inc. and Cingular Wireless Corporation for Consent to Transfer Control of Licenses and Authorizations*, WT Docket No. 04-70, et. al., FCC 04-255 (October 22, 2004) ("*AT&T/Cingular Order*"); *Qwest Wireless, LLC and Cellco Partnership d/b/a Verizon Wireless Seek Commission Consent for the Assignment of Sixty-Two Broadband Personal Communications Services Licenses*, WT Docket No. 04-264, DA 04-2254, Public Notice (July 22, 2004); *In re Applications of Western Wireless Corporation. and ALLTEL Corporation for Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, WT Docket No. 05-50, FCC 05-50 (released July 19, 2005) ("Order").

Inc. ("MCI")[5] allows the creation of two telecommunications giants that will control within their respective region roughly 90 percent of the residential wireline service, 70 percent of the long distance service, and *up to half* of the wireless telephone services. It cannot be denied that nationwide CMRS providers have increased their market power, decreasing the availability of roaming services at fair and reasonable rates for small providers and their customers.

Mergers have reduced from three to two the number of nationwide carriers using global system for mobile communications ("GSM ") as their digital standard (Cingular and T-Mobile).[6] Likewise, the Commission has recognized that currently there are only two nationwide Code Division Multiple Access ("CDMA") carriers (Verizon Wireless and Sprint).[7] This has created a market scenario where a virtual duopoly controls each CMRS technology type. The FCC has recognized that "…GSM carriers do not have the ability to roam with CDMA carriers, and vice versa."[8] Thus, the number of roaming options for small carriers and their customers is dwindling. It is with these market trends in mind that RTG and OPASTCO urge the Commission to adopt rules that will prevent large carriers from abusing their ever-growing market power. The Commission should mandate automatic roaming in rural areas and adopt rules to ensure that large, nationwide carriers offer the same reasonable roaming arrangements that they share with one another to small CMRS providers. Specifically, the Commission should require that all CMRS

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[5] *In the Matter of SBC Communications Inc. and AT&T Corp. Applications for Approval of Transfer of Control*, Memorandum Opinion and Order, WC Docket No. 05-65, FCC 05-183 (released November 17, 2005).
[6] *AT&T/Cingular Order* at ¶ 177.
[7] *Id*.
[8] *Id*. at ¶ 175.

carriers provide seamless (transparent to the user) automatic roaming at just and reasonable rates to any requesting small[9] carrier. Accordingly, all CMRS carriers should be required to allow customers of other carriers to seamlessly access their network, when technically compatible, with compensation based on mutually agreed upon, fair and reasonable rates. These compensation arrangements should be modeled upon large carrier compensation agreements that generally reflect competitive roaming market conditions. Large carriers should be required to file their roaming agreements with the Commission and offer the terms and conditions of these agreements to small CMRS carriers as they are offered to the nationwide carriers' "most favored" roaming partners.[10]

II. Rural Consumers Depend on Roaming

Rural consumers are in a unique position when it comes to their competitive CMRS choices. If they choose a nationwide carrier, the quality of service they receive in the rural regions where they live and travel is often nonexistent or, at best, spotty. Oftentimes, rural customers who subscribe to a nationwide carrier's service cannot even roam on the network of the small local carrier serving the area since the nationwide carrier does not allow its customers to roam on the rural carrier's system.[11]

When rural customers travel outside of their carriers' coverage area, they must depend on roaming. The typical situation is one in which the rural consumer uses local, rural service in and around their hometown, but must roam when driving outside the

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[9] RTG and OPASTCO support the use of a "Tier IV" category of CMRS carriers comprised of CMRS carriers with 100,000 customers or less in order to limit the reach of any new rules.
[10] *Notice* at ¶ 42.
[11] Many rural regions, with their highly-dispersed populations and inherently higher costs of providing service, typically support only one local carrier.

coverage area of the rural carrier's network for certain business or shopping reasons. Basically, the rural CMRS customer must utilize more roaming services due to the smaller size of the local carrier's service area. Thus, rural consumers depend on roaming to a greater extent than the average urban or suburban-based consumer that rarely leaves their carrier's expansive coverage area.

Rural consumers essentially exist in a CMRS "island" where they obtain service from their chosen carrier on their "island," but depend upon roaming when leaving the island. Since rural consumers leave their small islands so often, roaming rates are an integral part of their experience. Since nationwide carriers are able to abuse their market power with respect to smaller carriers and overcharge for roaming services, rural consumers, whose geographic circumstances force frequent roaming, are quite frequently the victims of such overcharging.

Manual roaming is not a legitimate or practical roaming option for the rural consumer. Like most urban and suburban consumers, rural consumers expect and demand automatic, seamless roaming. Considering how often the rural consumer must rely on roaming, it is not practical to expect them to attempt to manually connect to another carrier's network and, as is often the case for this operator-assisted service, pay a premium for this service. In fact, it is highly doubtful that many, if any, rural consumers (or urban and suburban consumers, for that matter) are aware that they can manually roam or understand how to manually access another carrier's network. Manual roaming is a relic of the early cellular days and, like rotary dialing, is no longer in demand.

III. Large, Nationwide Carriers Can and Have Abused Their Market Power and, Absent an Automatic Roaming Requirement, Will Continue to Do So

Large nationwide carriers are aware of the unusual reliance of rural customers and their carriers on roaming and use this leverage to squeeze rural carriers out of as much roaming revenue as possible. The economics of roaming not only leads to price gouging of rural carriers, it also provides a strong incentive for nationwide carriers to refrain from entering into roaming agreements with rural carriers. Nationwide carriers are willing to forgo roaming with rural carriers since their customers are less dependent upon roaming, especially in rural areas that are off the main highways. In many instances, nationwide carriers will deny their customers service in rural areas rather than enter into a roaming agreement with a small, rural carrier. Also, nationwide GSM-based carriers will often require rural roaming partners to use local area calling ("LAC") to limit the area in which roaming is permitted. This practice keeps nationwide customers from using the roaming services of rural carriers even in areas where a rural carrier is the only carrier providing coverage. This practice of blocking access to certain carriers' networks effectively negates a carrier's obligation to provide service to all roamers within its market,[12] undermining the underlying purpose of this rule. A rule mandating automatic roaming in areas served by rural carriers would keep nationwide CMRS providers from holding their customers hostage on their proprietary networks, allowing consumers to access vital communications services when they roam off of their home service.

It is the very dependence upon roaming by rural consumers that is being exploited by the nationwide carriers when they offer unreasonable roaming rates or refuse to even

[12] 47 C.F.R. § 20.12(c). As discussed above, manual roaming is an ineffective option for meeting this obligation.

enter into roaming agreements with small carriers. The rural consumer is stuck with the unenviable choice of having robust local service provided by the local, rural-based carrier coupled with unreasonable roaming rates, or the service of a nationwide carrier that works when traveling but can be useless near home. Requiring automatic roaming at reasonable rates will allow the rural consumer the legitimate option of choosing between the nationwide carrier, knowing that phone calls will not be blocked in their driveway, and the local carrier, knowing that they will not be paying excessively high rates when they roam.

In many cases, rural carriers, due to technological limitations based on a GSM or CDMA technology choice, and due to recent mergers, are left with only one viable roaming partner option. Large carriers are aware when they represent the sole roaming option for a rural carrier. Large, nationwide carriers have taken advantage of this market reality and, absent specific Commission, rules, will continue to abuse their growing market power which is magnified by roaming incompatibility between GSM and CDMA technologies.

Rural carriers have traditionally depended upon roaming revenue as a large part of their revenue stream. As the CMRS market has consolidated, rural carriers have seen their roaming revenue dwindle and the number of available roaming partners diminish. The decline in roaming revenue partially reflects the nationwide carriers' buildout of their networks which has resulted in less demand by large carriers for the network roaming services of smaller carriers. In addition, nationwide carriers have chosen to favor one another with roaming deals that contain reciprocal roaming rates that appear, on their

face, to be just and reasonable with some relation to the carriers' costs.[13] The arrangements reflected in these agreements are generally unavailable to rural CMRS carriers and this discriminatory treatment punctuates the need for rules to ensure that such "most favored" arrangements become available to smaller carriers.

Of the RTG and OPASTCO members reporting for the purposes of this proceeding, the average percentage of their total revenue that is roaming revenue is approximately 46.5 percent. For the carriers reporting, roaming revenue as a percentage of total revenue ranged from 30 percent to 65 percent, representing a significant revenue stream for the rural carrier. Thus, discriminatory roaming agreements between nationwide and rural carriers can have a devastating impact on the rural carrier and jeopardizes its survival. Since rural carriers oftentimes provide service in areas served by no other CMRS provider, it is in the public interest for the Commission to adopt rules ensuring that nationwide carriers cannot discriminate against smaller carriers.

As the industry has consolidated and competitive roaming options have dried up, rural carriers have seen a decline in the roaming rates that nationwide carriers are willing to pay. This decline in the rates large carriers are willing to pay makes economic sense up to a point due to reduced demand for rural roaming services. However, the rates that large carriers are demanding for rural consumers to roam on their networks result from the large carriers' ability to leverage their market power in an unfair manner. In many cases, nationwide carriers demand a premium (the highest rate averages around $0.52, as discussed *infra*) from the rural carrier to roam on their networks while paying only a few

[13] RTG and OPASTCO members have reviewed a number of agreements between larger carriers, and the nationwide carriers have made the details of these agreements public in many instances.

cents per minute to roam on the rural network. These lopsided roaming agreements have become the industry trend in rural/nationwide carrier negotiations.[14]

Under non-reciprocal roaming arrangements, rural carriers lose on both ends. First, rural carriers lose money when they pay a premium that surely covers more than a nationwide carrier's costs when the rural carrier's customers roam on the nationwide carrier's network. Second, rural carriers' roaming costs are usually higher than the nominal rates they receive from the larger carriers when the larger carriers' customers roam on the rural carriers' networks. In essence, rural carriers, in order to have any roaming agreements with larger carriers at all, end up paying nationwide carriers to allow the nationwide carriers' customers to roam on the rural networks.

Rural carriers must put up with these lopsided agreements since they have no other available options. Roaming is a vital part of their business and they must be able to offer roaming to their customers since these customers, as discussed *supra*, generally leave the rural carrier's licensed area to travel for work and other reasons. A rural carrier cannot survive if it is unable to offer a product that includes a wider area of coverage that can only be serviced through fair roaming agreements with other carriers. No matter how robust the rural carrier's coverage is in their home area, their customers demand a wider geographic area. Rural carriers are forced into lopsided roaming agreements in order to meet rural customer demand.

It has been the unfortunate experience of many RTG and OPASTCO members that market forces alone are unable to ensure an equitable resolution to competitive

[14] These negotiations are, in essence, contracts of adhesion forced onto the rural carrier, typically on a "take it or leave it" basis.

roaming issues. Simultaneously with the consolidation of the nationwide carriers, small rural carriers have experienced a spike in the cost for their customers to roam on the nationwide carriers' networks and an increased unwillingness by the national carriers to enter into roaming agreements or renew existing ones. RTG and OPASTCO members have reported that the average highest roaming rate paid by a rural carrier to a nationwide carrier is $0.52 per minute. Roaming rates paid by RTG and OPASTCO members to nationwide carriers range from $0.35 to $0.99 per minute. Rates of $0.52 and higher are, on their face, unreasonable. A minute of use on a network costs the same no matter who is using the network. Not only do these rates more than likely cover the nationwide carriers' costs, they squeeze revenue out of the nationwide carriers' smaller competitors. For rural carriers and their customers, the roaming market is failing to ensure reasonable roaming rates and regulatory intervention is needed if rural consumers are going to have any legitimate choice between national CMRS carriers and locally-owned and operated CMRS carriers who provide more robust, if not the only, service in their rural regions. Absent the regulatory measures requested herein, many rural carriers are likely to go out of business, depriving many of their rural customers of *any* CMRS service.

IV. RTG and OPASTCO Members Have Experienced Large Carrier Abuse of Market Power

Both national carriers and regional carriers, in many instances, are currently abusing their market power and are likely to continue to do so in the future since their market power continues to grow as the industry keeps consolidating. These abuses go beyond the unreasonable roaming rates reported above. What follows are a number of examples of egregious and anticompetitive behavior by large CMRS carriers. These

examples reflect the unequal bargaining power and market position that large carriers are able to exploit in order to pay below cost rates for access to rural networks and to demand an unconscionable premium for rural access to nationwide networks. Identifying details have been purposely removed in order to protect the identity of the small, rural carrier since these rural carriers have a legitimate fear of retaliation from the large carriers.[15]

- In 2003, AT&T Wireless (now, Cingular) unilaterally cut off the ability of its customers to connect with the network of an extremely remote and insular rural carrier serving an area characterized by harsh geography and climate. AT&T placed the rural carrier on its list of prohibited carriers[16] without any prior notice to the rural carrier. For several weeks, AT&T would not even communicate with the rural carrier. This is the behavior of a competitor with incredible market power since it is not even worried about its own customers' ability to access crucial communications services. The rural carrier was inundated with calls by angry customers who were unable to access *any* network when traveling outside of their home network. Not only was this an inconvenience for these consumers, it posed an extreme public safety hazard since these customers were traveling and doing business under extreme environmental circumstances. Eventually, AT&T removed the rural carrier from its prohibited list only when the rural carrier agreed to substantially lower roaming rates that did not even cover the rural carrier's own costs and agreed to pay a premium to access the AT&T network. This was not an arm's length negotiation between two competitors; it was a unilateral contract of adhesion forced onto the rural carrier.

- In Iowa, AT&T Wireless, prior to the Cingular merger, required a rural carrier to remove all of the AT&T line ranges on the rural carrier's switch so that AT&T customers absolutely could not use the rural carrier switch. AT&T demanded this even when the rural carrier offered to match the lowest roaming rates paid by AT&T to other carriers. This behavior illustrates the willingness by large carriers with overwhelming market power in certain regions to abandon the normal negotiations process and simply proceed on a "take it or leave it" basis backed up by the threat of cutting off all roaming service to the rural carrier.

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[15] For most rural carriers, a roaming agreement with a nationwide carrier or a large, regional carrier is the rural carrier's customers' lifeline to the mobile telecommunications network when they inevitably travel outside their home network. If a large carrier chooses to offer no roaming whatsoever, it can decimate a rural carrier's business in a matter of months. Such is the market position of many large carriers.

[16] AT&T prohibited its customers from accessing the networks of carriers on this list.

- In Iowa, Verizon Wireless removed a rural carrier's system identification number ("SID") from its preferred roaming list ("PRL") after the rural carrier would not drop its rates at a fast enough pace. Verizon, like other large carriers, will deny its own customers access to vital communications services in rural regions in order to force below-cost rates on a rural carrier. If Verizon were to enter into negotiations and to argue that the market rate for roaming in rural areas had declined, that would be an acceptable outcome that one would expect in a competitive roaming market. However, Verizon's unilateral behavior and willingness to harm its own customers by cutting off their roaming options demonstrates an abuse of its dominant market position.

- Again in Iowa, Alltel, after a lawsuit was filed against it, placed some rural carriers on their list of prohibited carriers, perhaps as retaliation for the unrelated lawsuit. Since the rural carriers provided coverage where Alltel had no coverage, Alltel's actions denied Alltel customers access to communications services, including emergency services.

- In California, a large carrier would not let its customers roam on a rural carrier's network until the rural carrier agreed to its rates. Since the rural carrier had no other nationwide carrier roaming options, it had no choice but to agree. Once again, a rural carrier was presented with a "take it or leave it" agreement that contained rates with no relation to actual roaming costs.

- One Midwest rural carrier was cutoff from roaming with a regional competitor for no other apparent reason than the rural carrier happened to be a competitor. The rural carrier in this case now has no other choice but to pay Verizon and Alltel $0.99 a minute to roam. Meanwhile, Alltel and Verizon enjoy low, preferential rates between each other.

- In Kansas, Alltel and Verizon favor one another and discriminate against their small, rural competitor. Verizon and Alltel have low, reasonable roaming rates between each other, but expect the rural carrier to pay substantially higher roaming rates. Verizon has specifically stated that it does not need the rural carrier and that it prefers Alltel, even though the rural carrier provides better quality service with more cell sites in the rural areas served by it and Alltel. Alltel will not allow its customers to roam at all with the rural carrier and refuses to put the rural carrier in the PRL.

- In many states, Verizon will not allow rural carrier customers to roam in the "home" state just outside their rural service areas (*i.e.*, "island"). Since this is where the majority of roaming activity occurs, Verizon is effectively preventing these rural customers from enjoying a useful and practical service.

- In the Midwest, AT&T Wireless (now, Cingular) used the threat of removing a rural carrier from its roaming database in order to force the rural carrier into a lopsided roaming agreement. AT&T also threatened to shut off the rural carrier on a nationwide basis if it did not accept the AT&T prescribed roaming rates.

What the above examples demonstrate is the willingness of large nationwide and regional carriers to use their market power to force rural carriers into unreasonable roaming agreements. Large carriers realize the importance of roaming to rural customers and their providers and exploit this fact. Rural carriers are in no position to bargain since the large carriers have access to a nationwide wireless network through both their own spectrum and favorable roaming agreements with one another. While increased revenue may be one reason for the larger carriers to discriminate against smaller carriers,[17] it appears more likely that the larger carriers force these high rates and lopsided agreements on smaller carriers simply to harm a potential competitor. RTG and OPASTCO fear that such instances of abuse will increase as the number of roaming competitors decreases through industry consolidation and as the larger carriers continue to favor one another in their roaming agreements to the exclusion of rural carriers. Strict rules mandating seamless, automatic roaming at just and reasonable rates would keep large carriers from being able to abuse their market position with respect to smaller competitors. Since arrangements among large competitors appear to reflect a competitive CMRS market rather than the unbalanced market power reflected in many nationwide/rural agreements, such agreements among large competitors ought to be used as the model for nationwide/rural agreements.

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[17] RTG and OPASTCO doubt that the revenue streams provided by lopsided roaming agreements with rural carriers are more than a rounding error on the nationwide carriers' balance sheets.

V. New Roaming Rules are Necessary to Protect Rural Consumers

RTG and OPASTCO support the imposition of automatic roaming requirements on certain CMRS carriers at just and reasonable rates.[18] Further, favorable agreements between the larger carriers must be the model for nationwide/rural agreements, whereby small carriers can utilize the terms and conditions enjoyed among "most favored" roaming partners. RTG and OPASTCO realize that there are differences in factors affecting roaming rates between two large carriers and those affecting rates between a large carrier and a smaller rural carrier. However, a carrier's roaming rates should have some rational relationship with the costs associated with roaming. Rates approaching $1.00 per minute are not reasonable and serve no rational purpose except to harm small rural carriers and their customers.

An automatic roaming requirement will not hinder facilities-based competition. Under lopsided agreements where the rural carrier pays a premium for access to a nationwide carrier's network and the nationwide carrier enjoys below cost rates in the rural area, nationwide carriers have no incentive to build facilities in rural areas. If nationwide carriers must pay just and reasonable roaming rates in rural areas, they may have the incentive to build their own facilities rather than roam. This would improve the quality of service options in rural areas. Also, with fair and compensatory roaming agreements, rural carriers will be better able to afford expansion of their networks to remote communities that currently lack coverage.

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[18] As discussed above, RTG and OPASTCO support the use of a "Tier IV" category of CMRS carriers comprised of CMRS carriers with 100,000 customers or less in order to limit the reach of any new rules. Thus, automatic roaming and favorable agreements would only be required if the requesting carrier was in the Tier IV category.

RTG and OPASTCO do not propose that small and rural carriers be exempt from providing automatic roaming to other carriers. All carriers should work together to enable their customers to use their handsets in as many areas as possible without incurring unreasonable roaming charges. Consumers expect automatic and seamless roaming and carriers ought to be required to facilitate, to the extent possible, roaming access on their networks.

RTG and OPASTCO believe that the technical details of such arrangements can be worked out between the carriers and that the Commission should not get involved with technical details other than requiring that carriers with similar technologies (*i.e.*, GSM or CDMA) ought to be able to roam with one another. As carriers provide more features, carriers should make reasonable attempts to support and charge for such features in their roaming agreements. Again, RTG and OPASTCO do not believe the FCC should get involved in technical standards other than ensuring that carriers do not refuse to enter into roaming agreements based on disingenuous technical incompatibility arguments.

Absent adoption of a mandatory automatic roaming requirement, wireless customers living, working, and traveling in rural areas will be harmed. The FCC's current manual roaming requirement, unused and unheard of by most wireless consumers, provides little or no public benefit. Not one RTG or OPASTCO member reported any customers that utilized manual roaming. Today's consumers expect seamless automatic roaming options and the FCC's rules need to reflect this market reality.

VI. Automatic Roaming Rules Are in the Public Interest

To date, the only relief a small, rural carrier has against the anticompetitive use of market power by larger carriers is through the FCC's complaint process. For a small carrier, the FCC's complaint process is both expensive and time-consuming. Further, the FCC's complaint process is not, as a practical matter, readily available to the consumers who are being harmed by the large carriers' abuse of their market power. The rural consumer who must pay unreasonable roaming rates when leaving their home territory is most likely unaware of the FCC's complaint process or Sections 201, 202, 208, 251, and 332 of the Communications Act of 1934, as amended and, in any event, unlikely to choose to incur the expense of prosecuting a complaint.

Firm automatic roaming rules can eliminate the market abuses, discussed *supra*, that are harming rural consumers who depend on roaming to a much greater extent than their urban and suburban counterparts. Rural consumers deserve the same quality of service as that provided in more populated regions and should not be required to absorb roaming rates with no basis in cost. It would be in the public interest for the Commission to develop rules to curb these abuses and potential future abuses on a widespread scale, rather than to rely on the piecemeal filing of complaints by the few rural carriers able to afford to have their complaints heard at the FCC.

VII. Conclusion

For the reasons stated herein, RTG and OPASTCO respectfully request that the Commission require that all CMRS carriers provide seamless (transparent to the user) automatic roaming at just and reasonable rates to any requesting "Tier IV" small carrier, as discussed herein. Compensation arrangements should be modeled upon large carrier

compensation agreements that generally reflect competitive roaming market conditions. To ensure that this occurs, large carriers should be required to file their roaming agreements with the Commission and offer the terms and conditions of these agreements to small CMRS carriers as they are offered to the nationwide carriers' "most favored" roaming partners.

Respectfully submitted,

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