Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
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

To: The Commission

JOINT REPLY COMMENTS
OF
AIRPEAK COMMUNICATIONS, LLC
AND
AIRTEL WIRELESS, LLC

AIRPEAK Communications, LLC ("AIRPEAK") and Airtel Wireless, LLC ("Airtel") (AIRPEAK and Airtel each, individually, a "Company" and, collectively, the "Companies"), by their attorneys and pursuant to Section 1.415(c) of the Federal Communications Commission ("FCC" or "Commission") Rules and Regulations, respectfully submit these reply comments in the above-entitled proceeding.[1]

I. THE RECORD CONFIRMS THAT AUTOMATIC ROAMING RULES ARE NECESSARY TO ENSURE UBIQUITOUS, COMPETITIVE SERVICE FOR WIRELESS CONSUMERS.

In their comments, the Companies explained that they are small, independent CMRS providers whose systems utilize the same technology as the iDEN network deployed by Sprint Nextel Corporation, Nextel Partners, Inc. (collectively "Nextel") and Southern Communications Services, Inc. d/b/a/ SouthernLINC Wireless ("SouthernLINC"). They endorsed the

[1] In the Matter of Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers, *Notice of Proposed Rulemaking*, WT Docket No. 05-265, FCC 05-160, released August 31, 2005 ("Notice" or "NPR").

Commission's determination that ubiquitous roaming was an important element in the development of a seamless nationwide network. They cautioned that growing concentration in the CMRS marketplace would increase the already very difficult job of getting roaming agreements, since resistance by even a single large carrier would have a substantial impact.

The record confirms that the Companies' concerns are shared by a number of parties. In their comments, members of the Rural Telecommunications Group, Inc. ("RTG") and the Organization for the Promotion and Advancement of Small Telecommunications Companies ("OPASTCO") described the frustrating experience of having only one large carrier with which to roam, and having that carrier abuse its market power by refusing to enter into roaming agreements.[2] To the extent that practice is representative of large nationwide and regional CMRS carriers, it runs contrary to the Commission's objectives and must be addressed through automatic roaming rules that are enforceable under Title II of the Communications Act.

The Companies specifically support the comments of SouthernLINC which state that roaming allows consumers to take equal advantage of economic benefits through reasonable roaming rates, and thereby increases the benefit of wireless services to the U.S. economy as a whole.[3] Roaming is a regulatory principle that promotes the public interest by allowing wireless subscribers to make a call regardless of the system to which they subscribe and where they are located. If subscribers are to enjoy truly ubiquitous wireless coverage, as opposed to the "nationwide" service advertised by some of the largest carriers, they should not experience dead zones in rural areas and should not have to pay inflated rates when they are permitted to roam.

For these reasons, the Companies urge the Commission to adopt rules that reflect the CMRS Roaming Principles detailed on the attached Exhibit A. They represent a balanced

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[2] RTG/OPASTCO Comments at pp. 7-9 and 11-13.
[3] SouthernLINC Comments at 19.

approach to automatic roaming that can be implemented in a straight-forward, easily managed regulatory structure. The Principles are intended to impose only that degree of regulatory oversight that is necessary to correct any marketplace imbalance. They establish clear guidelines that will permit carriers to understand their rights and obligations and will enable the FCC to take enforcement action quickly should that be necessary.

II. CONCLUSION

Adoption of rules that affirm fundamental Title II rights will permit the Companies' subscribers to enjoy roaming rights on reasonable terms and conditions and will eliminate the growing resistance by large carriers to entering into such arrangements. Accordingly, the Companies urge the FCC to apply the Roaming Principles listed in Exhibit A and adopt automatic roaming obligations for CMRS carriers, enforceable under Title II of the Communications Act.

Respectfully submitted,

/s/

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CMRS Roaming Principles

Roaming services are an essential component of mobile telecommunications services and fulfill an important public safety role. Ensuring that consumers have near ubiquitous access to roaming services, no matter where they travel, is in the public interest. Access to roaming services is particularly critical for consumers who are underserved or who live in rural and remote areas with fewer competitive options. Access to roaming services fosters competition in the wireless market and encourages new entrants. Given the importance of roaming services, the FCC should adopt rules to facilitate automatic roaming for all wireless customers based upon the following principles:

- Carriers must provide in-bound automatic roaming (i.e., permitting another carrier's customers to roam onto its network) to any requesting carrier with a technologically compatible air interface. All services that a carrier is currently offering (e.g., voice, data, dispatch) must be offered to a requesting carrier with a technologically compatible air interface.

- Carriers must provide in-bound automatic roaming services under rates, terms and conditions that are just, reasonable and non-discriminatory. In this respect, the FCC clarifies that Sections 201 and 202 do apply to roaming services.

- Carriers must negotiate in good faith.

    - FCC involvement is required only if a complaint is filed.

- The §208 complaint process should be strengthened to ensure it is an effective avenue for redress. To do so the FCC should incorporate the following presumptions:

    - A reasonable rate presumption. FCC should adopt the presumption that a just and reasonable wholesale rate for roaming cannot be higher than the carrier's best retail rate or average retail rate per minute.

    - A technical feasibility presumption. If a carrier is already providing roaming service (data, voice, dispatch) to other carriers using the same air interface then the roaming service will be presumed to be technically feasible (shifting the burden of proving it is not technically feasible)

    - A rapid response mechanism. Because of the competitive nature of the wireless industry, complaints cannot be allowed to languish indefinitely. Therefore, roaming complaints will be placed on the Enforcement Bureau's Accelerated Docket under Section 1.730 of the Commission's Rules.