



July 6, 2006

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

**Re: *Ex Parte* Notice:
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)**

Dear Ms. Dortch:

The National Telecommunications Cooperative Association (NTCA) is writing to express support for the Joint Petition for Commission Inquiry Pursuant to Section 403 of the Communications Act (“Joint Petition”), filed April 25, 2006 by AIRPEAK Communications, LLC, Airtel Wireless LLC, Cleveland Unlimited, Inc., Leap Wireless International, Inc., MetroPCS Communications, Inc., Punxsatawney Communications, Rural Telecommunications Group., and Southern Communications Services, Inc. d/b/a/ SouthernLinc Wireless (collectively, the “Petitioners”). NTCA believes that it is urgent for the Commission to implement an automatic roaming requirement,¹ and the inquiry at issue will help the Commission to adopt appropriate rules based on a complete and accurate record.

NTCA is a national association of 572 rural telecommunications carriers. NTCA’s members are full service incumbent local exchange carriers and each is a “rural telephone company” as that term is defined in the Communications Act of 1934, as amended. The majority of NTCA’s members also provide Commercial Mobile Radio Service (“CMRS”) to their rural communities.

NTCA’s members serve communities typically ignored by large carriers. Large carriers frequently serve interstate roadways running through rural areas of the country, but they customarily leave the rural communities, often situated far from the major thoroughfares, largely untouched. The Commission may find competition to exist when service territories are measured on a county-wide or MTA basis, but when actual territories where service is available are compared, rural carriers are often the only providers of widely available, reliable wireless service in rural communities. Rural consumers depend on their rural providers to serve them in their hometowns.

¹ *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, FCC 05-160, Memorandum Opinion and Order and Notice of Proposed Rulemaking, 20 FCC Rcd 15047 (2005) (“Roaming NPRM”).

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NTCA's members are reporting disturbing trends in the roaming marketplace. They say it is more difficult to negotiate favorable roaming arrangements as the large wireless carriers get ever larger. Some large carriers ignore the roaming requests of small carriers, or present terms that are unreasonable. In instances where large carriers are willing to roam with small carriers, the rural carriers are uniformly presented with "take it or leave it" agreements. There is no negotiation and the small carriers lack leverage with which to demand more favorable terms.

Rural carriers are also concerned with restrictions on "in market" automatic roaming. That is, if the service areas of two carriers overlap at all, the large carrier will not roam with the smaller. This trend is especially troubling given that service territories do not match. Small carriers typically hold licenses for small geographic areas that are situated within and completely encompassed by large carriers' service territories. Without "in market" roaming, the small carrier is an island of service with no potential roaming partners, even if no potential roaming partner actually provides service to the rural community. The rural consumer must then choose to either receive wireless service at the home, or wireless service in the community where he or she may work or receive essential services such as health care and shopping. One wireless phone will not serve both needs.

NTCA is on the record supporting an automatic roaming requirement.² Mandatory automatic roaming at reasonable rates is a necessary step for providing rural consumers good service at fair prices. However, NTCA's members report that some large carriers' practices are unreasonably hindering the operation of the mobile telephony market to the detriment of consumers.³ Large carriers argue that competition is doing its job, negating any need for a roaming requirement.⁴ Two very different pictures of the roaming marketplace have emerged and the Commission lacks the evidence to determine the correct image, absent a review of actual roaming agreements.

The Commission sought, but has not received, specific information about "the availability of automatic roaming services in various regions with specific data."⁵ Many roaming agreements contain confidentiality provisions that prohibit the disclosure of rate information absent a compulsory legal process. And, as the Petitioners assert, carriers that are charging different rates to different roaming partners are reluctant to disclose information for fear of allegations of discrimination.⁶

² See NTCA's comments in response to the Roaming NPRM (filed Nov. 28, 2005).

³ Anecdotally, NTCA is noticing its members are discontinuing their wireless service or selling their wireless systems to larger carriers. Roaming difficulties are at the top of the list of reasons why small carriers say they are finding it difficult to make a business case for continuing to offer wireless service. It is critical that the Commission act on the Roaming NPRM by mandating automatic roaming before more small providers are forced out of the CMRS business.

⁴ See, e.g., Roaming NPRM Comments of Nextel Partners, Inc, T-Mobile USA, Inc., Verizon Wireless.

⁵ Roaming NPRM ¶ 27 and ¶ 40.

⁶ Joint Petition, pp 4-5.

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Industry consolidation is hurting rural wireless providers and the consumers they serve. NTCA urges the Commission to gather the specific information on roaming agreements as requested in the Joint Petition. The burdens that may arise from this information collection process will be outweighed by the resulting benefits to carriers and consumers alike – specifically, permitting the Commission to see more clearly how some of the larger carriers may be retarding wireless competition by failing to negotiate fair roaming agreements with smaller rural carriers. The Commission should then use the information collected to act quickly to adopt an automatic roaming requirement that offers the remaining local and rural wireless providers the opportunity to continue to serve rural consumers in an environment with fair and equitable roaming arrangements.

NTCA appreciates the Commission's efforts in this proceeding and would like to continue the dialogue on the issues. If you have any questions, please do not hesitate to contact the undersigned.

Sincerely,

/s/ Jill Canfield
Jill Canfield
Senior Regulatory Counsel
Legal and Industry

cc: Chairman Kevin Martin
Commission Michael Copps
Commissioner Jonathan Adelstein
Commissioner Deborah Taylor Tate
Commissioner Robert McDowell
Fred Campbell
Bruce Liang Gottlieb
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