



OPASTCO

July 27, 2006

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

**RE: Written *Ex Parte* Presentation
Reexamination of Roaming Obligations of Commercial Mobile Radio Service
Providers
WT Docket No. 05-265**

Dear Ms. Dortch:

The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) hereby submits this written *ex parte* presentation in support of the Joint Petition for Inquiry filed by AIRPEAK Communications, *et al.* on April 25, 2006.¹ The Commission should grant the petition and gather the information necessary to assess the state of the commercial mobile radio service (CMRS) roaming market throughout the country. By collecting and reviewing a representative cross-section of CMRS roaming agreements, the Commission will have the data it needs to determine that an automatic roaming rule is necessary for small, rural wireless carriers to negotiate fair and reasonable roaming agreements with large, nationwide carriers.

OPASTCO is a national trade association representing over 550 small telecommunications carriers serving rural areas of the United States. Its members, which include both commercial companies and cooperatives, together serve more than 3.5 million customers. All OPASTCO members are rural telephone companies as defined in 47 U.S.C. §153(37). More than half of OPASTCO members provide some form of wireless service.

In the August 31, 2005 notice of proposed rulemaking (NPRM) in WT Docket No. 05-265, the Commission requested specific information regarding the automatic roaming market throughout the country.² The collection of roaming agreements sought by the Joint Petition will

¹ AIRPEAK Communications, LLC, Airtel Wireless, LLC, Cleveland Unlimited, Inc., Leap Wireless International, Inc., MetroPCS Communications, Inc., Punxsutawney Communications, Rural Telecommunications Group, Inc. (RTG) and Southern Communications Services, Inc. d/b/a SouthernLinc Wireless, Joint Petition for Commission Inquiry Pursuant to Section 403 of the Communications Act, WT Docket No. 05-265 (filed April 25, 2006) (Joint Petition).

² *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-

provide the Commission with the specific information it has requested, which is necessary to accurately assess the state of the national roaming market. The Petitioners' recommendation to have the Commission first collect a summary of agreements, followed by a representative sample of actual agreements,³ will provide the FCC with sufficient information with which to develop an accurate picture of the market for automatic roaming nationwide while minimizing the burden on small, wireless carriers.

Once the Commission has the information necessary to analyze the national roaming market, it will undoubtedly find that while the market for roaming is robust and competitive among the large carriers, small, rural carriers that seek agreements with the larger providers face a much different predicament. Specifically, large carriers have been abusing their market power, forcing small, rural carriers into roaming agreements where rural carriers' customers must pay an unreasonable premium to roam on a nationwide network. At the same time, nationwide carriers often pay less than rural carriers' costs for their customers to roam on the rural network. These agreements stand in stark contrast to those in urban and suburban regions, where large carriers' roaming agreements are reciprocal and bear some relationship to the carriers' costs. As OPASTCO has noted in prior comments,⁴ an automatic roaming rule is crucial to enable the customers of small, rural carriers to benefit from the same fair roaming arrangements that large CMRS carriers share with one another.

OPASTCO urges the Commission to grant the Joint Petition and gather the information necessary for an accurate picture of the national roaming market, and in particular, the circumstances faced by small, rural carriers. OPASTCO is confident that a complete assessment of the national roaming market will demonstrate that an automatic roaming rule is necessary for small, rural wireless carriers to provide high quality service to rural consumers.

Sincerely,

/s/ Stuart Polikoff

Stuart Polikoff

Director of Government Relations

OPASTCO

193, Memorandum Opinion & Order and Notice of Proposed Rulemaking, 20 FCC Rcd 15047, 15058, 15062, ¶¶27, 41 (2005) (NPRM).

³ Joint Petition, pp. 7-8. OPASTCO strongly supports Petitioners' suggestion that the Commission apply Section 0.459 of the Commission's rules to protect the confidentiality of the roaming agreements. *Id.*, pp. 8-9.

⁴ *Comments of RTG and OPASTCO*, WT Docket No. 05-265, (filed Nov. 28, 2005); *Reply Comments of RTG and OPASTCO*, WT Docket No. 05-265, (filed Jan. 26, 2006).