



December 14, 2006

VIA ELECTRONIC SUBMISSION

Ms. Marlene H. Dortch, Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: **Notice of Ex Parte Statement**
WT Docket No. 05-194

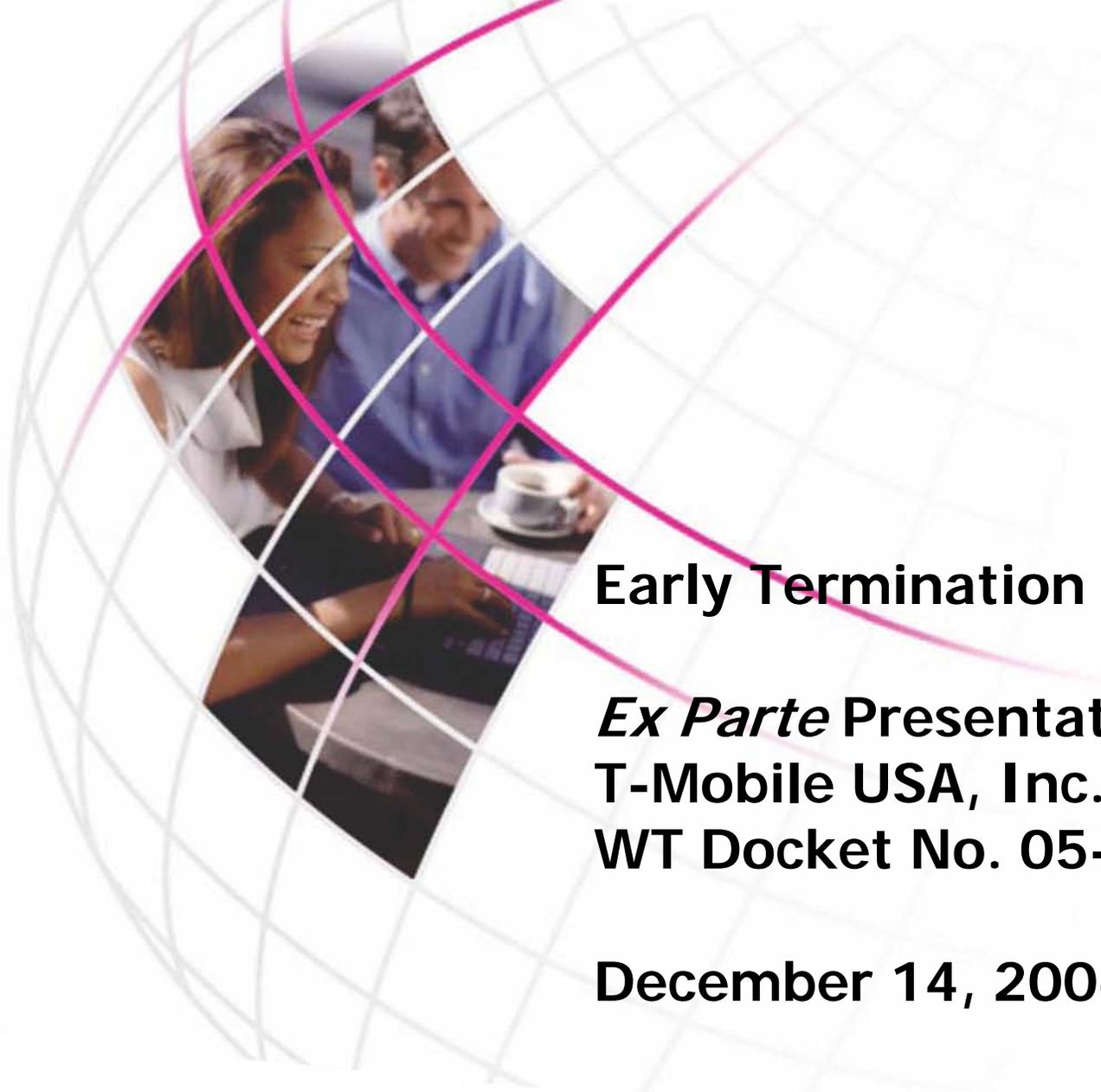
Dear Ms. Dortch:

On December 14, 2006, Kathleen Ham, Sara Leibman, and Erin Boone of T-Mobile USA, Inc., met with Fred Campbell, Legal Advisor to Chairman Kevin Martin. The parties discussed Early Termination Fee issues consistent with T-Mobile's comments in this docket. Attached is the slide presentation distributed at the meeting.

Pursuant to Commission Rule 1.49(f), this *ex parte* letter is being filed electronically via the Commission's Electronic Comment Filing System for inclusion in the public record of the above-referenced docket.

Sincerely,
/s/ Kathleen O'Brien Ham
Managing Director
Federal Regulatory Affairs
T-Mobile USA, Inc.

cc (*via electronic mail*)
Fred Campbell



Early Termination Fees

***Ex Parte* Presentation of
T-Mobile USA, Inc.
WT Docket No. 05-194**

December 14, 2006

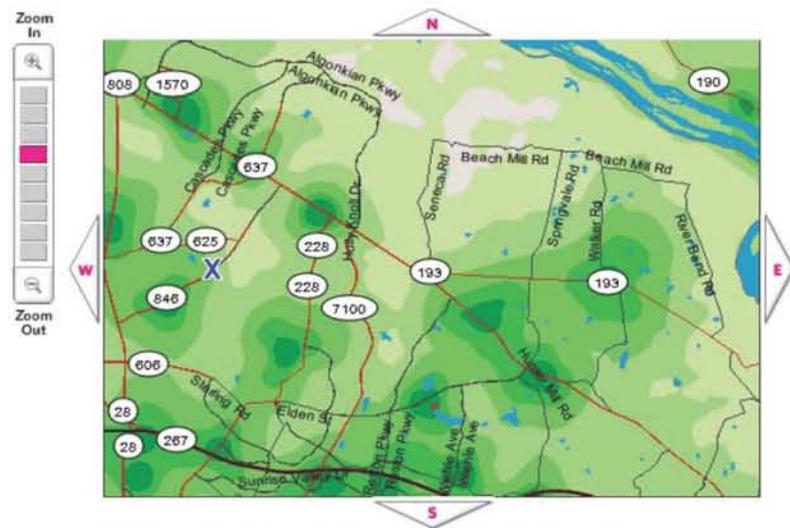


T-Mobile Is A Distinguished Leader In Customer Service

- **Repeatedly earn highest wireless customer satisfaction rankings by J.D. Power and Associates**
 - **Four consecutive wins in overall customer satisfaction across all six regions of the country.**
 - **Four consecutive wins in wireless retail sales satisfaction.**
 - **For four consecutive reporting periods, recognized as the leader in customer care.**
 - **2006 – Highest ranked or tied for best call quality in West (outright); Southwest (outright); Northeast (tied); Southeast (tied).**

T-Mobile Customer Choice – Personal Coverage Check

- Customers can determine whether coverage is adequate *before they buy.*
- T-Mobile takes disclosure seriously, offering potential customers their own Personal Coverage Check.



Mobile-to-mobile minutes and data services are not available in certain roaming areas included on T-Mobile's coverage maps.



- X Address Location
- 850 MHz Roaming Coverage
- T-Mobile USA Roaming Coverage
- T-Mobile Canada Roaming Coverage
- T-Mobile Mexico Roaming Coverage

State Regulation Is Unnecessary

- **Number of wireless FCC complaints has been trending downward.**
 - **Out of 204 million wireless subscribers in 2005, only 17,000 billing/contract complaints were lodged with the FCC – compared to 18,000 complaints and 182 million subscribers the year before.**
 - **Total FCC wireless complaints declined by 12% from 2004 to 2005.**
 - **Total FCC wireless complaints were down 28% between 3rd and 4th quarters 2005; billing-related complaints fell by 24%.**
 - **Total FCC wireless complaints continued a downward trend in 2006 from 4,956 in the 4th quarter 2005, to 4,050 in 2nd quarter 2006.**
- **Complaints as a percentage of wireless subscriber base is miniscule.**
 - **2005 billing/contract complaint rate was 0.008%.**
 - **2005 total complaint rate was 0.01%.**

Flexible Federal Regulation of ETFs Is Needed

- **A federal model works best, rather than state-by-state regulation.**
- **Carriers compete on ETF policy (e.g., recent Verizon proposal to prorate ETFs).**
- **Section 332(c)(3) bars state regulation of wireless rates.**
- **Regulation of ETFs – including the amount charged and the conditions under which they may be imposed – is rate regulation, not regulation of “other terms and conditions” of wireless service.**
- **State-by-state rate regulation will have a chilling effect on network deployment, raise the cost of services, and divert funds that could be used to create additional products and services.**

Early Termination Fees Are Rates

- **The wireless rate charged consists of numerous elements – activation fees, special features, local and long distance airtime, roaming charges, and early termination.**
- **Together these fees constitute the “price” charged for, and recover the costs of, providing wireless service.**
- **All carrier rates and rate structures are designed to reduce “churn” as well as recover costs.**
- **Economist Harold Furchgott-Roth White Paper**
(June 6, 2006, WT Docket No. 05-194)
 - **ETFs are part of the rate structure of wireless service.**
 - **Limitations on the rate structure of wireless services harm consumers.**

ETFs Enhance Consumer Choice

- **Wireless carriers offer pricing choices: term plans with discounted or free handsets, buckets of minutes, post-paid plans, and prepaid plans.**
- **Consumers have choice of multiple carriers, multiple technologies, and multiple ways to pay for wireless service.**
- **T-Mobile's prepaid plans, with reasonable rates and latest equipment, are widely available.**
- **ETFs allow consumers to spread cost of service across many months instead of full payment up front.**
- **Vast majority of consumers opt for term plans with ETFs.**

The FCC Can Grant Declaratory Relief

- **Grant of CTIA Petition does not require FCC to develop record on specific costs each carrier recovers through ETFs.**
- **FCC need only look to previous decisions construing ETFs as rates and previous rulings regarding scope of section 332(c)(3)(A).**
- **FCC's task is to interpret the statute, not become enmeshed in an elaborate ratemaking case.**
- **The 11th Circuit Court ruling on TIB does not limit FCC's authority to define ETFs as rates.**

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