



January 26, 2007

**VIA ELECTRONIC FILING**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: *Ex Parte* Submission; ET Docket No. 00-258, WT Docket No. 02-353; DA 06-1279; DA 06-1984

Dear Ms. Dortch:

PCIA – The Wireless Infrastructure Association (“PCIA”) files this *ex parte* submission in response to the January 19, 2007 *ex parte* filing of CTIA – The Wireless Association (“CTIA”), in which CTIA continues to (i) promote a clearinghouse approach that restricts choice for cost-sharing participants, and (ii) resist sharing of relocation link data.<sup>1</sup> PCIA maintains its commitment to promoting a clearinghouse approach that maximizes user choice throughout the process and that best serves all cost-sharing participants. With that aim, PCIA has proposed that the clearinghouses share link and PCN data on a real-time basis to enhance service to participants and promote competition among clearinghouses.

**PCIA Supports an Approach That Best Serves Cost-Sharing Participants**

PCIA agrees that the appropriate framework for analyzing the clearinghouse proposals is to consider (i) which entity is entitled to select a clearinghouse, (ii) when that entity is entitled to choose a clearinghouse, and (iii) how that entity should make its clearinghouse election. However, CTIA’s analysis of these issues is self-serving and subordinates the needs of cost-sharing participants to CTIA’s own interests.

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<sup>1</sup> See *Ex Parte* Presentation of CTIA – The Wireless Association, WT Docket No. 02-353, ET Docket No. 00-258; FCC Public Notice DA 06-1984 (filed Jan. 19, 2007) (“CTIA *Ex Parte*”).

### *Which Entity Is Entitled to Select a Clearinghouse*

The fundamental difference between the proposed approaches of PCIA and CTIA is that CTIA has consistently proposed to restrict access to clearinghouse services for a large portion of cost-sharing participants throughout much of the cost-sharing process. At the inception of this proceeding, CTIA sought to limit clearinghouse choice to only relocators filing link data. Originally, CTIA proposed that all PCN filers would be beholden to the clearinghouse selected by the relocator on a particular link. Since then, CTIA has begrudgingly modified its proposal to give PCN filers the opportunity to select a clearinghouse, but only after demonstrating that they have paid all of their cost-sharing obligations and bearing the burden of transferring link data. CTIA has consistently sought a process that makes it more difficult for PCN filers to select a clearinghouse that is different than that selected by the relocator or previous PCN filers on the link.

PCIA's proposals for clearinghouse operations have been based on its extensive experience administering cost-sharing for the PCS Microwave Clearinghouse. With each new proposal, PCIA has attempted to address the substantive concerns and issues raised by CTIA while maintaining PCIA's commitment to promoting a clearinghouse approach that is efficient and that reduces burdens on cost-sharing participants. PCIA maintains its position that *all* cost-sharing participants should be entitled to assistance from the clearinghouse of their choice.

### *When a Participant Is Entitled to Select a Clearinghouse*

CTIA's theoretical musings on the exact point at which a "payor" becomes a "payee" are irrelevant to the administration of cost-sharing. As a practical matter, a cost-sharing participant likely will not know when it becomes the "holder of potential future rights to cost-sharing," which CTIA contends should trigger a participant's right to select a clearinghouse.<sup>2</sup> CTIA claims that its proposal on the timing of clearinghouse election is based on the concept that participants should choose a clearinghouse "at the time when they actually have some reason to choose."<sup>3</sup> But in PCIA's previous clearinghouse experience, it is not unusual for a cost-sharing participant to require, and should receive, assistance from a clearinghouse when that participant first enters the cost-sharing process. Typically, these participants need a better understanding of the FCC's cost-sharing plan, the participant's role in the process, and the basis for its obligations, among other things. In order to reap the full benefits of clearinghouse competition, a participant should be able to receive these services from the clearinghouse of its choice.

The Commission should not sanction CTIA's restrictive view of clearinghouse services. A clearinghouse does not merely to notify participants of reimbursements due. A clearinghouse also informs cost-sharing participants of their reimbursement obligations and serves as a body of knowledge regarding cost-sharing procedures and rules. In addition, as the Commission directed in the *Ninth Report and Order*, the clearinghouse serves as the first level of

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<sup>2</sup> CTIA *Ex Parte*, Attachment at 2.

<sup>3</sup> *Id.* 3.

dispute resolution.<sup>4</sup> PCIA knows first hand the importance of this role. The clearinghouse can, in most cases, prevent prolonged disputes by providing facts and explaining the cost-sharing rules. As directed by the Commission, PCIA will serve as “a neutral, not-for-profit clearinghouse to administer the cost-sharing plan,”<sup>5</sup> including in the context of dispute resolution.

On this point, CTIA mischaracterizes PCIA’s description of the services that clearinghouses provide. PCIA does not suggest that a clearinghouse “represents” a party in a dispute; rather, PCIA proposes that any participant should be able to seek assistance from the clearinghouse of its choice at any point in the cost-sharing process. Based on PCIA’s clearinghouse experience, most disputes can be resolved with an explanation of the cost-sharing rules and formula. Further, the Commission’s rules specify precisely the formula for determining cost-sharing obligations. Thus, there is no actual danger of a clearinghouse favoring one participant over another.

Unlike CTIA, PCIA has supported clearinghouse competition from the start of this proceeding.<sup>6</sup> As a not-for-profit entity supporting the wireless industry, PCIA is committed to promoting efficient and cost-effective cost-sharing services to all participants. Consistent with this goal, PCIA supports a clearinghouse approach that is easy for participants to use and that best delivers to participants the benefits of clearinghouse competition.

#### *How a Participant Elects a Clearinghouse*

PCIA agrees that there are numerous of methods by which a participant could make its clearinghouse election. As a practical matter, a participant requires effective notice of its option to select a clearinghouse when it enters into the cost-sharing process. Based on this practical consideration, PCIA proposes that clearinghouse elections be made when a participant files link or PCN data. As CTIA notes, it is simple to add a column for participants to designate its clearinghouse when filing PCN data.<sup>7</sup> Although “when” and “how” a participant elects a clearinghouse may be distinct concepts, CTIA presents no practical solution to how a participant will be notified that it can elect a clearinghouse at the point in time when “a possibility of a future right to compensation exists.”<sup>8</sup> Moreover, as discussed above, participants may require assistance from its own clearinghouse prior to the time it has a right to a reimbursement. CTIA’s

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<sup>4</sup> *Amendment of Part 2 of the Commission’s Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems; Service Rules for Advanced Wireless Services In the 1.7 GHz and 2.1 GHz Bands*, Ninth Report and Order, 21 FCC Rcd 4473 ¶¶ 68, 122 (2006) (“*Ninth Report and Order*”); 47 C.F.R. §§ 27.1172, 27.1188.

<sup>5</sup> *Ninth Report and Order* at ¶ 83.

<sup>6</sup> PCIA *Ex Parte* Notice, ET Docket No. 00-258, WT Docket No. 02-353, DA 06-1279 (filed Oct. 20, 2006).

<sup>7</sup> CTIA *Ex Parte*, Attachment at 3.

<sup>8</sup> *Id.* 2.

proposal limits information to a participant regarding its right to choose a clearinghouse in order to increase the likelihood that it will simply default into the clearinghouse selected by its predecessors on a particular link.

### **Data Sharing Promotes Competition Between Clearinghouses**

CTIA's argument that complete sharing of all link and PCN data would undermine competition between the clearinghouses is erroneous and illogical. Cost-sharing participants will benefit from the fastest and most reliable cost-sharing process possible. Both speed and reliability of cost-sharing administration are enhanced by real-time sharing of all data, as PCIA proposes. Contrary to CTIA's assertions, PCIA does not propose a level of coordination that slows the process.<sup>9</sup> Indeed, sharing data on a real-time basis will promote competition for better service by clearinghouse.

Under PCIA's proposal, clearinghouses could provide participants filing PCN data a quick determination regarding all of the obligations owed. Additionally, with real-time data sharing, any updates or corrections to data can be reflected in cost-sharing calculations more quickly. Participants will have a higher level of confidence in the clearinghouse process under PCIA's proposed approach. If data is shared only on an occasional true-up basis, as CTIA proposes, any updates or corrections to cost-sharing notices to reflect new data would be delayed by the period between true-ups. Further, under the Commission's cost-sharing rules, cost-sharing obligations are determined on an objective basis—both clearinghouses will always produce the same result in the same circumstance. Therefore, clearinghouses will compete based on customer care, pricing of services, and ease of use by participants.

Moreover, CTIA's analogy of data sharing in the clearinghouse and wireless local number portability ("LNP") contexts is entirely irrelevant. CTIA's argument is premised on the assumption that a cost-sharing participant defaults into the clearinghouse selected by the preceding filer and can be "ported" to the other clearinghouse upon an affirmative election once it has obtained all of the link data and demonstrated that it has paid all of its obligations. However, a participant making an initial clearinghouse election is not analogous to a wireless customer seeking to switch carriers. A wireless carrier requesting to port his number provides his own personal information to the new carrier it selects. CTIA proposes that a PCN filer selecting a clearinghouse must first obtain the relevant link data that is not immediately within the PCN filer's possession. Thus, CTIA proposes to put the burden of collecting the link data and requesting a transfer of link data to the other clearinghouse on participants. In the context of clearinghouse choice, the Commission should adopt an approach that reduces administrative burdens on participants of electing a clearinghouse. Such a goal would best be effectuated by real-time data sharing between clearinghouses. Clearinghouses can easily share link data on a real-time basis to make clearinghouse selection a seamless process.

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<sup>9</sup> PCIA proposed delivery of courtesy copies of notices to the other clearinghouse merely as an additional check and as a courtesy to the other clearinghouse. PCIA does not object to dispensing with the courtesy copy of notices.

PCIA urges the Commission to adopt a clearinghouse approach that allows clearinghouse choice to all participants, throughout the cost-sharing process. By virtue of being subject to cost-sharing rules, each cost-sharing participant has the right to assistance from the clearinghouse of its choice, even before it is due a reimbursement. Further, the clearinghouses will be able to better serve their respective customers if each has a complete set of link and PCN data updated on a real-time basis. Therefore, the Commission should adopt an approach that is consistent with PCIA's proposals in this docket, and should reject CTIA's proposals to restrict clearinghouse choice and to limit data sharing among clearinghouses.

Should you have any questions regarding this submission, please do not hesitate to contact the undersigned at (703) 535-7451.

Respectfully submitted,

/s/

Connie Durcsak

cc: Cathleen Massey  
Joel Taubenblatt  
Peter Daronco