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February 6, 2007

Via Electronic Filing

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

Re: **EX PARTE**
WC Docket No. 06-122; DA 06-1615

Dear Ms. Dortch:

On February 5, 2007, Tom Sugrue, Kathleen Ham, Amy Wolverton, Laura Linderman, and the undersigned of Morrison & Foerster LLP, all representing T-Mobile USA, Inc. ("T-Mobile"), met with the following representatives of the Wireline Competition Bureau: Tom Navin, bureau chief; Jeremy Marcus, division chief; Amy Bender, special counsel; and Cindy Spiers to reiterate T-Mobile's support for the CTIA Petition for Declaratory Ruling submitted in the above-captioned proceeding. The CTIA Petition seeks clarity, among other things, on how wireless carriers that use traffic studies to determine their universal service contributions should treat interstate and international toll service revenues.

T-Mobile covered the points set out in its previous filings in this proceeding and otherwise relied upon the attached presentation.

In accordance with Section 1.1206(b) of the Commission's rules, I am filing electronically one copy of this letter to be included in the above-referenced proceeding.

Yours truly,

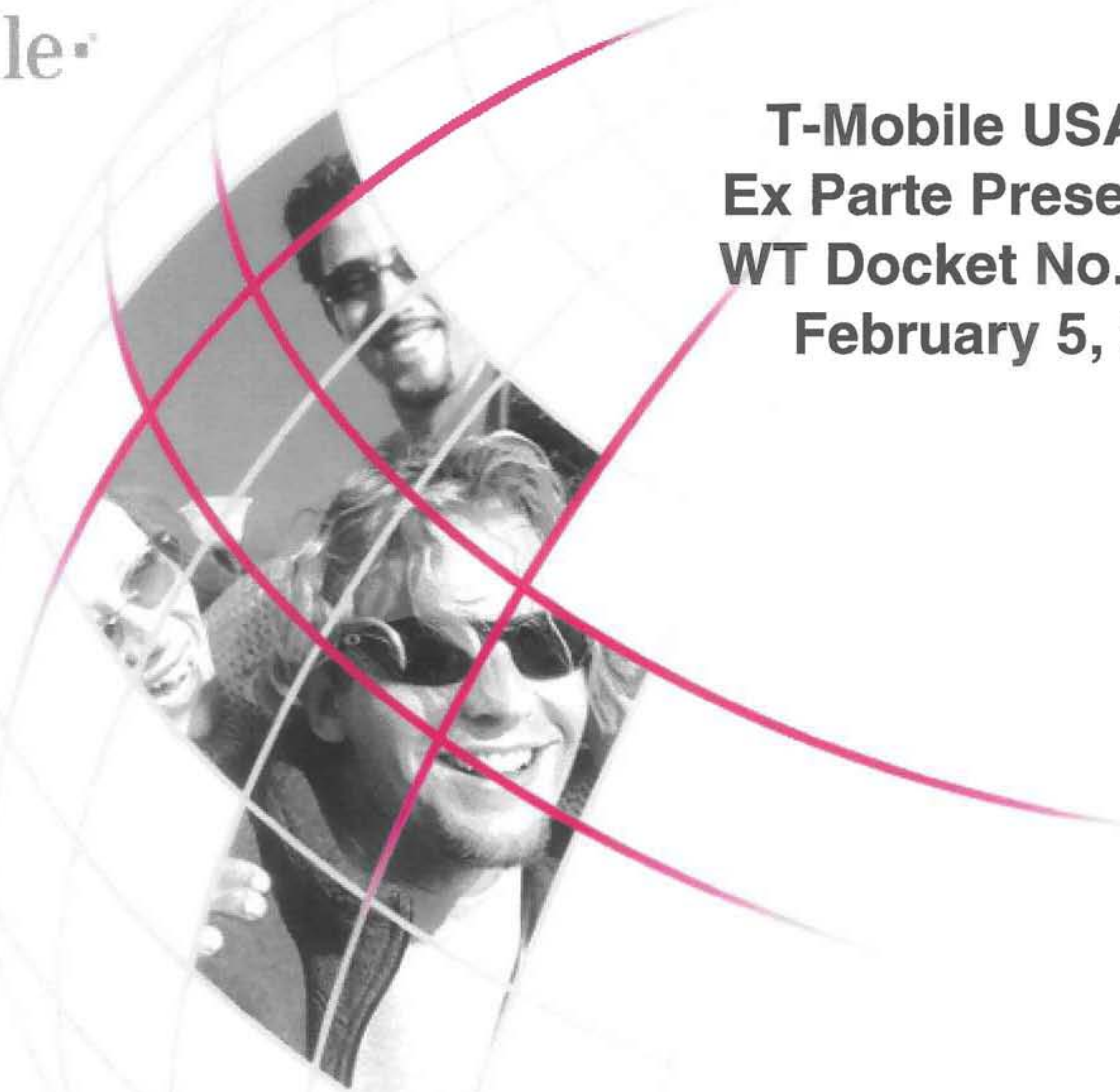
Cheryl A. Tritt
Counsel to T-Mobile USA, Inc.

Attachment

cc: Tom Navin
Jeremy Marcus
Amy Bender
Cindy Spiers

Attachment

T··Mobile·



T-Mobile USA, Inc.
Ex Parte Presentation
WT Docket No. 06-122
February 5, 2007

USF PETITION FOR DECLARATORY RULING ON TOLL ISSUES
WIRELINE BUREAU

T · Mobile ·

- T-Mobile fully supports the goals of universal service and contributes as required to the USF.

- T-Mobile has paid more than half a billion dollars to the USF to date and expects to contribute more than a billion dollars to the USF in the next five years.

- Consistent with FCC rules and orders, T-Mobile uses company-specific traffic studies to report interstate revenues for USF purposes.

- T-Mobile supports the CTIA Petition for Declaratory Ruling seeking clarity on how the FCC intends wireless carriers to treat interstate and international toll service revenues.

THE FCC HAS EXPRESSLY RECOGNIZED THAT CARRIERS RELYING ON TRAFFIC STUDIES PROPERLY REPORTED TO USAC BY ALLOCATING ALL TELECOMMUNICATIONS REVENUES, INCLUDING TOLL, USING TRAFFIC STUDY PERCENTAGES.

- In a 2003 order addressing how carriers using traffic studies could recover their costs from their customers, the FCC held that "***the interstate telecommunications portion of each customer's bill would equal the company-specific percentage based on its traffic study times the total telecommunications charges on the bill***." (2003 Reconsideration Order at 1424, ¶ 8) (emphasis added)

- The FCC explained that this approach to cost recovery was reasonable because it was "consistent with the way in which companies report revenues to USAC."

FORM 499A LANGUAGE SUGGESTING THAT CARRIERS MUST REPORT ACTUAL REVENUES FOR TOLL DOES NOT APPLY TO TRAFFIC STUDY FILERS.

- In connection with a discussion of safe harbor procedures, the 2002 Form 499A instructions stated that filers should report the actual amount of interstate and international revenues for universal service pass through charges, fixed local service revenues or toll service charges.
- This language is set forth in a section of the Form 499A instructions addressing safe harbor filers. Traffic studies are not mentioned.
- Moreover, this language appears only in the Form 499A instructions, which cannot override directives set forth in FCC orders.

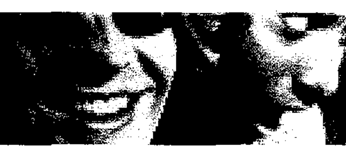
T-Mobile

ANY REQUIREMENT TO SEPARATE OUT TOLL REVENUE MAY APPLY ONLY PROSPECTIVELY.

- Carriers have reasonably relied on the FCC's past rules, as set forth in published orders and regulations.
  - FCC orders and case law prohibit the FCC from applying any new rules or regulatory clarifications retroactively in accord with "notions of equity and fairness." (*Regulation of Prepaid Calling Card Services*, FCC 06-79, ¶ 45 (June 30, 2006)).
  - "For example, we recognize that retroactive application of our decision would be burdensome for menu-driven prepaid calling card providers, in that the decision subjects them to access charges, Universal Service Fund contribution obligations, and the full panoply of Title II obligations. We also recognize that, given the state of the law at the time, parties may have relied on the assumption that they would not be subject to these burdens." *Id.*

ANY REQUIREMENT TO SEPARATE OUT TOLL REVENUE MAY APPLY ONLY PROSPECTIVELY.

- Carriers would incur significant costs that could not be recovered from customers if applied retroactively.
- The case for retroactivity is much weaker here than in the case of menu-driven prepaid calling cards because the FCC clearly allowed application of the traffic study percentage to all revenue – there is no ambiguity.
- Thus, retroactive application here not only would be inequitable, it would be unlawful.



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