



CONSUMER ADVOCATE DIVISION
STATE OF WEST VIRGINIA
PUBLIC SERVICE COMMISSION
700 Union Building
723 Kanawha Boulevard, East
Charleston, West Virginia 25301
(304) 558-0526

May 8, 2007

NOTICE OF EX PARTE PRESENTATION
(47 C.F.R. § 1.1206)

VIA ECFS

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

Re: *Petition for Declaratory Ruling Filed by CTIA, WT Docket No. 05-194; Petition for Declaratory Ruling Filed by SunCom, and Opposition and Cross-Petition For Declaratory Ruling Filed by Debora Edwards, WT Docket No. 05-193*

Dear Ms. Dortch:

On May 7, 2007, the following representatives of the National Association of State Utility Consumer Advocates ("NASUCA") met with Commissioner Jonathan S. Adelstein and his senior legal advisor, Barry Ohlson, to discuss issues related to the above-referenced proceedings: John R. Perkins, NASUCA President and Iowa Consumer Advocate; Charles Acquard, NASUCA Executive Director; David C. Bergmann, Ohio Assistant Consumers' Counsel; Patrick W. Pearlman, West Virginia Deputy Consumer Advocate; and Kathleen F. O'Reilly, NASUCA Counsel.

The meeting covered issues regarding the petitions for declaratory ruling filed in the subject dockets, including:

- NASUCA's concerns regarding recent statements by Chairman Kevin J. Martin expressing support for preempting State laws dealing with wireless carriers' early termination fees ("ETFs"),¹ and a February 28, 2007 meeting

¹ See, e.g., TechLawJournal, "Martin Discusses FCC Activities," TLJ News from Jan. 16-20, 2007 (Jan. 17, 2007), available at <http://www.techlawjournal.com/home/newsbriefs/2007/01d.asp>; Telecommunications Reports – TR

Marlene H. Dortch
May 8, 2007
Page 2

between Chairman Martin and other Commission staff, and representatives of CTIA, Consumers Union and AARP. NASUCA understands that meeting was primarily aimed at encouraging these parties to arrive at a settlement, one that would presumably include some form of State preemption² but that would nonetheless be characterized as acceptable to “consumers”.

- NASUCA’s continued opposition to preemption of State laws addressing wireless carriers’ ETFs, as reflected in its initial and reply comments previously filed in these proceedings, and reaffirmation for the legal, factual and policy reasons militating against preemption.
- Judicial determinations of whether ETFs are held to be “rates charged by” commercial mobile radio service (“CMRS”), which States generally may not regulate, or “other terms and conditions” of CMRS that Congress expressly reserved to States.

Please do not hesitate to contact me or David C. Bergmann at bergmann@occ.state.oh.us (614.466.9559) if you have any questions about the foregoing.

Very truly yours,

/s/

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State Newswire, “Martin Hopeful That Talks on ETFs Produce Agreement” (March 28, 2007), available at www.tr.com/insight2/content/2007/in032807/In032807-02.htm.

² See CTIA *ex parte* (March 5, 2007), available at http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6518910107.