



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 11, 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 10, 2007, the following representatives of the National Association of State Utility Consumer Advocates ("NASUCA") met with Nick Alexander, Acting Legal Advisor for Commissioner Deborah Taylor Tate, 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, Assistant Ohio 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:

- A discussion of the relevant background of the two proceedings referenced above and communications to the Commission since the close of comments.
- The relevant statutory provisions of the Communications Act and the legislative history of 47 U.S.C. §332(c)(3)(A), particularly Congress' express

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directive that “other terms and conditions” of CMRS subject to continued State regulation was to be broadly construed and specific inclusion of “bundling of services and equipment” within the meaning of “other terms and conditions.”

- 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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