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VIA ELECTRONIC FILING

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Room TW-A325  
Washington, D.C. 20554

Re: Reexamination of Roaming Obligations of Commercial Mobile Radio Service  
Providers; WT Docket No. 05-265 Ex Parte Notice

Dear Ms. Dortch:

This is to provide notice, pursuant to Section 1.1206 of the Commission's Rules, 47 C.F.R. §1.1206, concerning several issues relevant to the Commission's consideration of roaming obligations of CMRS carriers. These issues were presented via telephone to Erika Olsen, Legal Advisor to Chairman Martin, Aaron Goldberger, Legal Advisor to Commissioner Tate, Bruce Gottlieb, Legal Advisor to Commissioner Copps, Angela Giancarlo, Legal Advisor to Commissioner McDowell, and Renee Crittendon, Legal Advisor to Commissioner Adelstein.

In order to make a meaningful difference to consumers, the Commission should adopt a roaming obligation that covers data roaming. The public interest and legal basis for such an obligation was set forth fully in a joint letter filed by over 26 carriers and carrier organizations on July 18, 2007.<sup>1</sup>

Tying a data roaming obligation to a requirement that the data traffic actually transit the Public Switched Telephone Network ("PSTN") will produce nonsensical results, because some carriers providing the exact same data service in question may use the PSTN, whereas others may not. This would introduce new regulatory disparities into the roaming market based solely on technological differences that are invisible to consumers.

However, even if the Commission should decide to adopt a limited mandatory data roaming obligation such as the one discussed above, the Commission should nevertheless make clear that, to the extent carriers already offer data roaming services to other carriers (whether or not they

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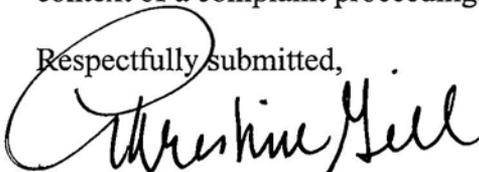
<sup>1</sup> See Joint Letter filed July 18, 2007; see also, SouthernLINC Wireless *Ex Parte* letter of July 2, 2007.

fall within any definition included in the mandatory rule), these services would still be subject to Sections 201, 202, and 208 of the Communications Act.

Finally, some nationwide carriers have suggested that the Commission make some findings that certain kinds of business practices result in services not being considered "like" services under Section 202, suggesting, for example, that there be a finding that one-way agreements are not similar to two-way agreements or that differences in areas of coverage mean that carriers are not similarly situated. The Commission does not need to make any such *a priori* findings about what constitutes a "like" service, particularly since these suggestions are completely inconsistent with established legal precedent holding that "likeness" is a functional equivalency test. What constitutes a Section 202 violation should thus be determined through a case by case review based on already well-established legal principles.

Accordingly, the Commission should put in place appropriate Section 201, 202, and 208 remedies which would allow an individual carrier's practices to be examined, if necessary, in the context of a complaint proceeding.

Respectfully submitted,



Christine M. Gill

Counsel for SouthernLINC Wireless

cc: Chairman Kevin J. Martin  
Commissioner Michael J. Copps  
Commissioner Jonathan S. Adelstein  
Commissioner Deborah Taylor Tate  
Commissioner Robert M. McDowell  
Erika Olsen  
Bruce Gottlieb  
Angela Giancarlo  
Renee Crittendon  
Barry Ohlson  
Aaron Goldberger  
Fred Campbell, Chief, Wireless Telecommunications Bureau  
Blaise Scinto  
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Nese Guendelsberger  
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Christina Clearwater