

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

<u>Developing a Unified Inter-carrier</u>)	CC Docket No. 01-92
<u>Compensation Regime</u>)	
)	
and)	
)	
<u>Establishing Just and Reasonable Rates</u>)	WC Docket No. 07-135
<u>For Local Exchange Carriers</u>)	

**REPLY OF NORTH COUNTY COMMUNICATIONS CORP. TO OPPOSITION OF
METROPCS COMMUNICATIONS, INC. TO MOTION OF
FREECONFERENCECALL.COM TO CONSOLIDATE DOCKETS
CC DOCKET NO. 01-92 AND WC DOCKET NO. 07-135**

North County Communications Corporation (“North County”) through its undersigned counsel, respectfully submits its reply to the opposition of MetroPCS Communications, Inc. (“MetroPCS”) to the motion of FreeConferenceCall.com (“FreeConferenceCall”) to consolidate the dockets in the above-captioned proceeding. North County supports the motion filed by FreeConferenceCall and requests that the Federal Communications Commission (“Commission”) consolidate current Commission dockets CC 01-92 (comprehensive reform) and WC 07-135 (access charges). Consolidation of these dockets is entirely necessary and appropriate. Resolution of the issues set forth in WC 07-135 on its own only hinders meaningful, expeditious resolution and reform of the intercarrier compensation system as a whole, which MetroPCS admits must happen.

North County is a facilities-based competitive local exchange carrier (“LEC”) that has operated in California and a variety of other states for well over a decade. North County provides business customers with an array of local and long distance telecommunications services. As part of its business, North County provides originating and terminating exchange

access services so that carriers can send calls to and receive calls from North County's customers.

MetroPCS' opposition further supports the need for one docket to manage intercarrier compensation. MetroPCS *agrees* with FreeConferenceCall that "the Commission should seek to resolve the issues presented in the Intercarrier Compensation docket as expeditiously as possible."¹ However, MetroPCS mistakenly assumes that the issues raised in WC 07-135 are wholly severable from any underlying intercarrier compensation reform. The number of issues that are common between the two dockets should not be the Commission's focus. Rather, the fact that overlapping issues exist—which MetroPCS admits—mandates that the Commission focus its regulatory efforts in one unified proceeding. Resolving *any* issues relating to intercarrier compensation outside of CC 01-92 destroys any momentum that the Commission may have towards fully recommitting itself toward meaningful reform to eliminate discriminatory treatment, caused by antiquated arbitrary regulatory distinctions, for otherwise identical functionality on a prospective basis.

MetroPCS' opposition is replete with references to "traffic pumping," and MetroPCS continues to accuse North County, and other similarly situated carriers as being "traffic pumpers." MetroPCS is the real traffic pumper, however. MetroPCS markets itself as offering a flat-rated service plan to its customers, "allow[ing] them to make local and/or long distance calls...*of unlimited number and duration.*"² Further, in its own informational materials, MetroPCS emphasizes that "[un]like other companies, MetroPCS gives [customers] permission

¹ Opposition of MetroPCS at 2.

² MetroPCS Communications, Inc. Form S-1 at 11 (March 23, 2004), available at <http://www.secinfo.com/d14D5a.11e82.htm>.

to speak freely” by virtue of “unlimited rate calling plans.”³ By its very nature, an unlimited calling plan invites customers to talk all they want, and MetroPCS encourages its customers to do just that.⁴ MetroPCS underscores that there are “44,640 minutes” in a typical month and invites its customers to “[u]se all of them if you want!”⁵ Given the nature of these calling plans, and MetroPCS’ enthusiastic encouragement that its customers “use their telephone,” MetroPCS is in no position to accuse North County, and other carriers, of being so-called “traffic pumpers.” Callers who use the telephone frequently make higher volumes of calls and accordingly incur significant intercarrier compensation charges.

Even more troubling, in spite of the 1996 Act, a Commission mandate, and reams of precedent demonstrating that MetroPCS, and others, shall pay reasonable compensation charges, MetroPCS has used self-help, by refusing to pay any charges for termination services that it knowingly and willingly consumes, as a tactic to bully North County, and other small carriers. MetroPCS’ traffic volumes to North County have continued to grow, and MetroPCS is unable to identify any quality differences in the termination service provided by North County as compared to that provided by other carriers in California, including those to whom MetroPCS pays rates at, and well above, those charged by North County. It is ironic that MetroPCS claims it has been “harmed” by carriers, like North County, who charge lawful and reasonable rates for termination of traffic when in fact MetroPCS outright, and unlawfully, refuses to compensate

³ MetroPCS FAQ at 3, available at <http://investor.metropcs.com/phoenix.zhtml?c=177745&p=irol-faq>.

⁴ *Id.*

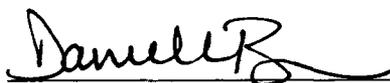
⁵ *Id.*

carriers for providing these services to its *own* customers who admittedly generate the very traffic at issue.

The Commission must join CC 01-92 with 07-135, especially given the rogue self-help actions taken by carriers, like MetroPCS, to avoid paying reasonable compensation rates simply because their customers happen to use the phone a lot. MetroPCS knows full well that carriers, like North County, cannot engage in traffic blocking. Yet, MetroPCS continues to “pump” traffic to North County’s customers without paying a single cent for termination. These actions tilt the economic playing field steeply against North County and other competitive carriers and new entrants. Comprehensive reform is the only avenue by which the Commission can fully evaluate the facts and balance the equities to eliminate arbitrary regulatory distinctions which incite myriad compensation disputes.

For the foregoing reasons, the Commission should grant the motion of FreeConferenceCall to consolidate the dockets.

Respectfully Submitted,



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CERTIFICATE OF SERVICE

I, Danielle M. Benoit, hereby certify that on this 27th day of March, 2008, I served copies of the foregoing "Reply of North County Communications Corp. to Opposition of MetroPCS Communications, Inc. to Motion of FreeConferenceCall.com to Consolidate Dockets CC Docket No. 01-92 and WC Docket No. 07-135" to the parties on the following list via First Class mail:



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