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*NOT ADMITTED IN VA

March 9, 2010

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-B204
Washington, DC 20554

Re: Written *Ex Parte* Communication

WT Docket No. 09-66 - Annual Report and Analysis of Competitive Market Conditions
With Respect to Mobile Wireless including Commercial Mobile Services

GN Docket No. 09-157 - Fostering Wireless Innovation

WT Docket No. 05-265 – Further Notice of Proposed Rulemaking in the Matter of
Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers
Carriers and Handset Manufacturers

RM No. 11497 – Rural Cellular Association Petition for Rulemaking Regarding
Exclusivity Arrangements between Commercial Wireless Carriers and Handset
Manufacturers

RM No. 11592 - Petition for Rulemaking on 700 MHz Band Mobile Equipment Design
and Procurement Practices

GN Docket No. 09-51 – A National Broadband Plan for our Future

GN Docket No. 09-137 - Deployment of Advanced Telecommunications Capability to
All Americans in a Reasonable and Timely Fashion and Possible Steps to Accelerate
Such Deployment Pursuant to section 706 of the Telecommunications Act

Dear Madam Secretary:

Cellular South, Inc. (“Cellular South”) hereby supplements its comments filed in the
above-referenced dockets in which the Commission invited input on competitive market

conditions (09-66) and fostering innovation (09-157) in the wireless industry. The data submitted with this letter is also relevant to each of the other proceedings referenced above.

During the fourth quarter of 2009, AT&T and Verizon Wireless accounted for the vast majority of postpaid customer additions in the wireless industry, each with over one million net additions.¹ The movement toward a wireless duopoly not only continued but accelerated during the fourth quarter of 2009. Postpaid customers are the most significant measure of a wireless carrier's success and the basis upon which financing is available to most wireless carriers, including Cellular South.

The absence of data roaming requirements as to non-interconnected services continues to enhance the market power of the nation's two largest wireless carriers. Delay in action by the Commission is detrimental to subscriber growth and current customers who have a reasonable expectation of access to email and broadband data services when traveling outside the service area of regional and smaller carriers.

Exclusive handset arrangements continue to impede competition among wireless carriers to the detriment of the public, and the arrangements threaten the ongoing viability of small and mid-sized wireless carriers such as Cellular South. AT&T's exclusive offering of the Apple iPhone™ has deprived customers of Cellular South and other carriers of a novel product with unique applications, some of which are enhancements to public health and safety. The Commission should not permit carriers with national market power to lock up innovative customer devices in exclusive marketing arrangements.

With regard to devices to operate on 700 MHz spectrum, Cellular South asks the Commission to act favorably on a Petition for Rulemaking, filed September 29, 2009, to require that mobile devices for the 700 MHz bands be capable of operating on all commercial paired frequency blocks to the extent technically feasible. There is an urgent need for Commission action in this matter because there is roughly an 18-24 month design and production cycle for the customer equipment. In addition, Lower Block A equipment must be designed for purchase in large quantities so that any costs for filters to minimize interference with adjacent TV channel 51 will be nominal. Without economies of scale in equipment consumers will not benefit from the potential of Lower Block A and the potential for competition in the 700 MHz bands will not be realized.

As the Commission considers plans to increase broadband service availability in the United States it should also look to promote the prompt and efficient use of 700 MHz spectrum already auctioned. Lower Block A must not become an orphaned block of spectrum as the result of the equipment design and procurement practices of the largest wireless carriers.

Sincerely,

A handwritten signature in blue ink, appearing to read "David L. Nace".

David L. Nace

¹ See the attached compilation of wireless carrier postpaid customer additions.

Cc via email:

Chairman Julius Genachowski
Commissioner Michael J. Copps
Commissioner Robert M. McDowell
Commissioner Mignon Clyburn
Commissioner Meredith Attwell Baker
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