Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Reexamination of Roaming Obligations of	)	
Commercial Mobile Radio Service	)	WT Docket No. 05-265
Providers and Other Providers of Mobile	)	
Data Services	)	

REPLY COMMENTS OF

THE RURAL TELECOMMUNICATIONS GROUP, INC.

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July 12, 2010

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SUMMARY

Several dozen mobile service providers, either individually or through associations, have joined the Rural Telecommunications Group, Inc. ("RTG") in outlining the numerous public interest benefits that would result from the creation of automatic roaming obligations for data services. Furthermore, these same companies, who provide vital mobile wireless service to tens of millions of Americans using every major air interface technology, have carefully detailed the ample legal authority available to the Federal Communications Commission ("FCC" or "Commission") to enact such regulations under Titles I, II and III of the Communications Act of 1934, as amended. Nonetheless, the country's two largest mobile service providers, AT&T and Verizon Wireless, who together control almost two-thirds of the marketplace, have rejected these arguments. The de facto duopoly have focused their objections on two main arguments: (1) Section 332 of the Act precludes data roaming services from qualifying as a common carrier service, deeming it instead a private mobile radio service; and (2) once created, data roaming regulations would dampen investment and innovation in the mobile wireless marketplace.

In its reply comments, RTG has demonstrated that data roaming services are a common carrier service by virtue of serving as a "functional equivalent" of voice roaming services and differ tremendously from the Commission's definition of private mobile radio services. Additionally, these reply comments refute the overstated public interest harms suggested by AT&T and Verizon Wireless while furnishing additional examples of how data roaming regulations would create and maintain public interest benefits as America transitions from a circuit-switched infrastructure to an IP-centric mobile technology platform. By extending automatic roaming obligations to data services, the FCC will serve the public interest by making ubiquitous, nationwide mobile broadband a reality for rural consumers throughout the country.

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The Rural Telecommunications Group, Inc. ("RTG"), by its attorneys and pursuant to Section 1.415 of the Rules and Regulations of the Federal Communications Commission ("FCC" or "Commission"), hereby submits its reply comments to the numerous comments submitted in response to the Commission's *Second Further Notice*[1] concerning mobile data roaming.

I. INTRODUCTION

The Commission recently sought comment on whether or not to extend automatic roaming obligations to data services. Dozens of mobile wireless operators, either individually or through associations, have submitted remarks urging the Commission to implement roaming obligations similar to those already in effect for voice roaming. These mobile operators span the breadth and width of the country, serving urban and rural markets alike, and together they provide voice and data services to tens of millions of Americans. Rarely has the mobile wireless industry seen such unified support from providers of all sizes on such an important issue. In fact, only three parties submitted comments opposing such regulations.[2] Not surprisingly, the main

[1] *In the Matter of Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers and Other Providers of Mobile Data Services*, Order on Reconsideration and Second Further Notice of Proposed Rulemaking, WT Docket No. 05-265, FCC 10-59 (released April 21, 2010) ("*Second Further Notice*").

[2] *See generally* Comments of AT&T, Inc. (submitted June 14, 2010) ("AT&T Comments"); Comments of Verizon Wireless (submitted June 14, 2010) ("Verizon Comments"); and Comments of ACS Wireless, Inc. ("ACS") (submitted June 14, 2010) ("ACS Comments").

objectors to data roaming regulations are AT&T, Inc. ("AT&T") and Verizon Wireless ("Verizon").[3]

The overwhelming majority of commenters support the Commission's authority to mandate automatic data roaming. First, and most importantly, the FCC has the requisite legal authority under several sections of the Communications Act of 1934, as amended ("the Act") to extend automatic roaming regulations to data services. Second, it is in the public interest for all mobile wireless carriers to have access to nationwide data roaming services so that each and every American consumer can benefit equally from ubiquitous data coverage, not just those customers of AT&T and Verizon. The sad irony here is that no two companies benefited more (and for longer periods of time) from roaming services than AT&T and Verizon. Simply because they had the historical head start to acquire spectrum, build-out a network, and benefit from the economies of scale of a larger subscriber base and to acquire numerous competitors over time to achieve near nationwide access does not mean that the door to universal mobile data coverage should close shut after they enter. On the contrary, it is incumbent upon the FCC to act upon its duly delegated powers and extend automatic roaming obligations to data services.

II. SECTION 332 DOES NOT DENY THE COMMISSION THE REQUISITE LEGAL AUTHORITY TO REQUIRE AUTOMATIC DATA ROAMING.

AT&T and Verizon largely focus their arguments disputing the Commission's legal authority to mandate automatic data roaming on one section of the Act, namely, section 332.[4]

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[3] The third party filing comments in opposition to data roaming obligations is ACS, a provider in Alaska. ACS represents the industry exception, not the rule. ACS is in the AT&T and Verizon camp simply because it is a monopoly in some of its more rural markets and it does business in the one state the four nationwide providers have been reluctant to move into from a retail perspective. By avoiding direct retail competition and threats of network overbuilds from nationwide carriers, ACS has tremendous leverage to dictate the terms of its roaming agreements and is almost certainly a net *sender* (not receiver) of roaming traffic. Quite simply, ACS has a pecuniary interest to keep the status quo, at least until Verizon no longer needs ACS's network for roaming in Alaska.

AT&T and Verizon base these arguments on the mutual exclusivity of the Act's definitions of commercial mobile service ("CMRS") and private mobile services.[5] As AT&T notes, mobile wireless services are divided into one of two regulatory categories, "commercial mobile services ("CMRS"), which are subject to certain common carrier obligations," or non-CMRS ("private mobile") services.[6] Verizon further notes that "a person providing a 'private mobile service' cannot be treated as a common carrier for any purpose."[7] As these carriers note, there can only be two sides to the coin.[8] If a company qualifies as a provider of "private mobile services" then it is not subject to common carrier regulation. However, under the same logic, if under Section 332 a company does not fall under the narrow definition of a private mobile service provider, then by default it must be a provider of CMRS and thus subject to common carrier regulation. Contrary to the assertions of AT&T and Verizon, automatic data roaming cannot be classified as a private mobile service and must be classified as a CMRS service and therefore a common carrier service.

Section 332(c) of the Act states how common carrier treatment should apply to commercial mobile services.[9] Section 332(d) defines CMRS as "any mobile service . . . that is

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[4] AT&T Comments at p. 11 ("Under Section 332, the Commission therefore has no authority to displace market-based roaming arrangements with regulations that require data roaming under terms that the Commission believes reasonable."); Verizon Comments at p. 20 ("Section 332(c)(3) proscribes the proposed data roaming obligations.").

[5] Following the passage of the Omnibus Budget Reconciliation Act of 1993 (Pub L. No. 103-66) the term commercial mobile radio service ("CMRS") has replaced and has been given the same meaning as "commercial mobile service."

[6] AT&T Comments at p. 13.

[7] Verizon Comments at p. v.

[8] AT&T Comments at p. 13 ("Under the plain terms of the Act, therefore, services that are not CMRS services cannot be subject to common carrier regulation."); Verizon Comments at pg. 20 ("Accordingly…the Commission may not exercise that authority in a way that imposes a common carrier obligation on a private mobile service.").

[9] 47 U.S.C. §332(c)(1)(A).

provided for profit and makes interconnection service available (A) to the public or (B) to such classes of eligible users as to be effectively available to a substantial portion of the public, as specified by regulation by the Commission." Section 332(c) defines "private mobile service" as "any mobile service . . . that is not a commercial mobile service or the functional equivalent of a commercial mobile service, as specified by regulation by the Commission." Accordingly, a mobile service that is a commercial mobile service *or the functional equivalent of a commercial mobile service* is *not* a private mobile service, and therefore is a CMRS service afforded common carrier treatment.[10]

AT&T and Verizon argue that automatic data roaming falls outside the scope of the CMRS definition because it does not offer customers interconnection with all users of the public switched telephone network.[11] This argument relies on the mistaken assumption that a service that is not interconnected with the public switched telephone network cannot be the functional equivalent of a commercial mobile service. This assumption ignores the FCC's test for determining whether a service is the "functional equivalent" of CMRS:[12]

> A variety of factors will be evaluated to make a determination whether the mobile service in question is the functional equivalent of a commercial mobile radio service, including: consumer demand for the service to determine whether the service is closely substitutable for a commercial mobile radio service; whether changes in price for the service under examination, or for the comparable commercial mobile radio service would prompt customers to change from one

[10] *See also* 47 C.F.R. §20.9(a)(14) (extending commercial mobile radio service status to "a mobile service that is the functional equivalent of a commercial mobile radio service.").

[11] AT&T Comments at p. 15 ("Conversely, the Act defines 'private mobile services'…'as any mobile service that is not a commercial mobile service or the functional equivalent of a commercial mobile service, as specified by regulation by the Commission.' Wireless Services that do not make available interconnection with the public switched network are necessarily non-CMRS 'private mobile services' under this definition."); Verizon Comments at p. 22 ("Because data roaming is not an interconnected service, it also cannot be the 'functional equivalent' of commercial mobile service.").

[12] 47 C.F.R. §20.9(a)(14)(ii)(B).

service to the other; and market research information identifying the targeted market for the service under review.

A. Automatic Data Roaming is the Functional Equivalent of CMRS

The functional equivalency "test" described in §20.9(a)(14)(ii)(B) is met if three factors are present. The first factor the Commission looks at is whether consumer demand for the service is closely substitutable for CMRS. Voice roaming, which is a CMRS[13], allows consumers to communicate when outside of their home carrier's service area. Meanwhile, data roaming provides for such services as VoIP, Instant Messaging services, and other two-way means of mobile communications. Mobile consumers are increasingly demanding such evolved replacements for two-way mobile voice and text (SMS) communications, both while on-network and while roaming.[14] Accordingly, the first factor of the functional equivalency test – requiring consumer demand for the substitute service – is easily met. The second factor the Commission must look at is whether a change in pricing would prompt customers to change from one service to the other. A quick way to determine whether this applies is to ask the following hypothetical: If, in a roaming situation, the home carriers "passed through" voice and text roaming charges, but did not charge customers for the ability to use VoIP or Instant Messenger services while roaming, would those customers abandon voice roaming for data roaming? Clearly, price would

[13] *In the Matter of Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers*, Report and Order and Further Notice of Proposed Rulemaking, WT Docket No. 05-265, FCC 07-143 (released August 16, 2007) ("*2007 Roaming Order*") at ¶ 18 ("In this Report and Order, we first find that automatic roaming is a common carrier obligation pursuant to Sections 201 and 202 of the Communications Act, and then discuss the scope of the automatic roaming obligations for CMRS carriers.").

[14] *See generally*, Comments of The Blooston Rural Carriers at p. ii ("Consumers increasingly regard broadband data services as a seamless feature on modern wireless handsets, and few consumers know or care about the difference between interconnected data (like SMS) and non-interconnected data (such as email). They expect that these features will work the same way whenever they have wireless service."); Comments of Sprint Nextel at 9 ("For example, consumer smartphone users do not expect some of these functions to work (*e.g.* voice, text messaging and push-to-talk), but not others (*e.g.* web browsing, e-mail, GPS navigation) in various locations."); Comments of United States Cellular Corporation at p. 2 ("Indeed, with every passing year and each successive "generation" of wireless technology, wireless data capabilities continue to develop. The reliance on these services by wireless consumers becomes even greater and the need for FCC action on data roaming grows more urgent.").

be a prime motivating factor leading mobile customers to prefer data roaming services. Put another way, if the customer can achieve the same functionality, the "behind the curtain" details of how the sounds of one's voice are transmitted or how the typed words appear on the recipient's mobile device are irrelevant. Finally, the third factor required to establish whether a service is the functional equivalent of CMRS is "market research information identifying the targeted market for the service under review." The target market here is unquestionably data services provided to roamers which have become substitutes for voice services, as evidenced by the multitude of commenters urging the Commission to extend data roaming obligations to data roaming services. Commenters in support of Commission action have provided ample evidence that consumers do not just want data roaming when off-network, they have come to expect it.[15] Based on these factors, data roaming does indeed act as a functional equivalent to traditional mobile voice roaming and is thus properly considered a commercial mobile radio service.

B. Automatic Data Roaming is Not a Private Mobile Service

As noted above, Section 332(d)(3) defines "private mobile service" as "any mobile service (as defined in section 3) that is not a commercial mobile service or the functional equivalent of a commercial mobile service, *as specified by regulation by the Commission*."[16] AT&T and Verizon conveniently overlook the fact that the Commission, first in 1994 and later in 1997, through its formal rulemaking proceedings, adopted and amended specific regulations

[15] *See generally*, Comments of Rural Cellular Association at p. 8 ("First, it is likely that customer demand for data roaming services will continue to increase as more advanced broadband networks are deployed."); Comments of Free Press at p. ii ("The experiences of small and regional carriers show that the large incumbents have not entered into data roaming agreements adequate to meet consumer demand for roaming services."); Comments of Leap Wireless International, Inc. and Cricket Communications, Inc. at p. 5 ("Consumers now demand and expect seamless coverage of wireless services, including data services.").

[16] 47 U.S.C. §332(d)(3) (emphasis added).

about precisely what type of service constitutes private mobile radio service.[17] Section 20.3 of the FCC's rules defines "Private Mobile Radio Service" as follows:

> A mobile service that is neither a commercial mobile radio service nor the functional equivalent of a service that meets the definition of commercial mobile radio service. Private mobile radio service includes the following: (a) Not-for-profit land mobile radio and paging services that serve the licensee's internal communications needs as defined in part 90 of this chapter. Shared-use, cost-sharing, or cooperative arrangements, multiple licensed systems that use third party managers or users combining resources to meet compatible needs for specialized internal communications facilities in compliance with the safeguards of §90.179 of this chapter are presumptively private radio services; (b) Mobile radio service offered to restricted classes of eligible users. This includes entities eligible in the Public Safety Radio Pool and Radiolocation service; (c) 220-222 MHz land mobile service and Automatic Vehicle Monitoring systems (part 90 of this chapter) that do not offer interconnected service or that are not-for-profit; and (d) Personal Radio Services under part 95 of this Chapter (General Mobile Services, Radio Control Radio Services, and Citizens Band Radio Services); Maritime Service Stations (excluding Public Coast stations) (part 80 of this Chapter); and Aviation Service Stations (part 87 of this chapter).

Automatic data roaming clearly falls outside the scope of each of these examples of Private Mobile Radio Service. Indeed, these examples are so dissimilar to the function and general character of both voice and data roaming that there can be no basis to presume that those activities qualify as private mobile radio services. Indeed, the examples listed in §20.3 include not-for-profit services, services to restricted classes of users, and such wholly un-commercial and recreational uses as "CB" radios and "RC" radio control products. Accordingly, because automatic data roaming is not a Private Mobile Radio Service, by law, it must be a Commercial Mobile Radio Service and therefore regulated as a common carrier service.

[17] See generally *In re Implementation of Sections 3(n) and 332 of the Communications Act Regarding Regulatory Treatment of Mobile Services*, Second Report and Order, GN Docket No. 93-252, FCC 94-31 (released April 19, 1994); 47 C.F.R. §20.3, definition of Private Mobile Radio Service, subsection (b) amended April 17, 1997.

C. Automatic Data Roaming Falls Within the Definition of CMRS Used in the Commission's Rules

Section 20.9 of the FCC's rules contains numerous examples of CMRS services, including Cellular, PCS and other "for-profit" services which carry both voice and data roaming traffic. These examples are more closely related to both voice and data roaming than any of the limited examples listed in §20.3 which defines private mobile radio services. In addition, §20.9(a) includes in the definition of CMRS "any such service offered as a *hybrid* service…or offered as an *auxiliary* or *ancillary* service."[18] AT&T and Verizon both promote data services in conjunction with their voice products to the point of making the two features completely intertwined to the end user. In fact, one of AT&T's new mobile web browsers was recently described as "bringing the best of the open Web to consumer feature phones" and also as a "rich *hybrid* experience."[19] It is reasonable, therefore, to conclude that data roaming, by its very nature, may be classified as a hybrid of mobile voice and Web functionality, as an auxiliary service of traditional voice roaming, or at the very lease an ancillary service of traditional voice roaming. Accordingly, automatic data roaming falls within the scope of all applicable definitions of commercial mobile radio service.

III. UNFOUNDED ASSERTIONS OF LACK OF NETWORK CAPACITY DO NOT OUTWEIGH THE NUMEROUS PUBLIC INTEREST BENEFITS OF AUTOMATIC DATA ROAMING.

The comments submitted in this proceeding demonstrate numerous public interest benefits that will result from implementation of automatic data roaming.[20] AT&T and Verizon

[18] 47 C.F.R. §20.9(a) (emphasis added).

[19] Ted Woodbery, Vice President of Wireless Data, Voice and Ancillary Services for AT&T's Mobility and Consumer Markets Division, October 5, 2009 (see generally http://www.att.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=27203) (emphasis added).

[20] *See e.g.,* Comments of Cellular South at p. 16 ("As Cellular South has explained in the previous section, the adoption of a data roaming mandate will produce numerous benefits and serve to advance Commission broadband

argue that the collective public interest benefits of data roaming obligations will be outweighed by a single potential harm: a lack of network capacity.[21] As discussed in detail below, the alleged "risks" of network capacity constraints posed by other domestic roamers are greatly exaggerated by AT&T and Verizon and defy the economic principles that drive the mobile wireless sector.

First and foremost, it is not economical for a mobile wireless operator to have its subscribers constantly roaming off-network, whether they utilize voice or data services, or both. The trend within the mobile wireless retail marketplace – which itself is often directed by the decisions of AT&T and Verizon -- is for flat-fee retail pricing. This means that a retail mobile wireless subscriber pays one price for unlimited minutes and unlimited data, regardless of whether those data packets or minutes of use were consumed on-network or off-network. This fact is important to remember. However, unlike on-network usage, off-network roaming usage is a wholesale service that the home carrier, in the vast majority of cases, must "eat" and those operational costs associated with that service are rarely, if ever, passed-on to the end subscriber. Therefore, whenever a subscriber roams, whether as a customer of AT&T or Verizon, or whether as a customer of a small, rural member of RTG, that home carrier incurs added costs that deteriorate that particular customer's revenue contribution. In other words, the customer is more

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policies in a variety of ways."); Comments of Free Press at p. 7 ("In particular, data roaming can bring many of the benefits of broadband to the low-income and rural communities that wireline broadband has been slow to reach."); Comments of MetroPCS at p. 8 ("Wireless data roaming also will increase competition in the market for wireless services, incent carriers to invest in next-generation networks and provide public safety and national security benefits."); Comments of SouthernLinc at p. 2 ("Moreover, mobile data services – including, but not limited to, mobile broadband services – confer significant societal benefits through the promotion of economic productivity and development, public safety, and nondiscriminatory access to advanced communications services for all segments of the population. Commission action on data roaming is therefore essential to ensuring that these benefits are available to all U.S. consumers.").

[21] AT&T Comments at p. 2 ("Under these circumstances, subjecting mobile broadband providers to entirely unnecessary common carrier data roaming obligations would only exacerbate these congestion issues."); Verizon Comments at p. 47 ("A logical outgrowth of a data roaming mandate is that carriers will need additional network capacity to handle the influx of data usage by roaming subscribers.").

expensive to keep – perhaps to the point of being unprofitable. Mobile wireless carriers need voice and data roaming coverage to advertise a "nationwide network" to compete effectively with AT&T and Verizon, but it comes at a heavy, heavy price.

Second, assuming the home carrier wants to keep its customer, it has two options: (1) increase the retail cost paid by the customer; or (2) eliminate the added operational costs of roaming. In order to remain competitive with nationwide providers, small and rural mobile wireless providers must match or improve the retail price levels existing in the marketplace. No rational consumer would willingly pay additional retail roaming costs when the nationwide providers include it at no additional charge. Therefore, increasing the retail price point is not a legitimate option. The only realistic way a mobile wireless carrier can decrease operational (wholesale) roaming costs would be to overbuild those high-cost roaming markets where feasible. Through network expansion and acquisitions, AT&T and Verizon morphed from urban-centric operators with a large reliance on roaming to nationwide operators proudly proclaiming little need for roaming services. Fortunately for both operators, additional network consolidation is unlikely, so non-nationwide carriers seeking to reduce operational roaming costs are incentivized to build-out "greenfield" networks or overbuild roaming partners with similar or higher-capacity, data-focused networks. Despite what AT&T and Verizon claim, increased consumer access to data roaming will not deter licensees from building-out more wireless data networks and increase investment and innovation in the process. AT&T and Verizon have never been able to place in the record evidence that competing carriers failed to build out their license areas because they were taking advantage of AT&T and/or Verizon's network build-out. Moreover, AT&T and Verizon each benefit financially by having other carriers paying them to use their networks for roaming.

Third, even if the economic conditions of the roaming marketplace were negated completely, the actual amount of potential data consumption AT&T and Verizon are claiming will occur is also greatly exaggerated. Few mobile wireless players dispute the fact that data usage is increasing and will, over time, completely replace voice usage. However, the capacity threats affecting either AT&T or Verizon are from their own customers, not roamers. Marketplace statistics speak for themselves. AT&T and Verizon account for a combined 60 percent market share nationally.[22] It is wholly implausible to suggest that rampant (and highly uneconomical) off-network roaming by drastically fewer customers would so greatly strain the networks of either of these carriers. The two remaining nationwide carriers, Sprint Nextel and T-Mobile USA, Inc., do not find this a credible threat and fully support the data roaming obligations.[23] Nonetheless, even if the threat did exist, the larger carriers would be most "vulnerable" in metropolitan or urban markets. Not surprisingly, this is precisely where there will be greater competition and more roaming options from all of the nationwide carriers and other regional carriers.[24] A far more likely scenario is that data roaming access will be requested in non-urban areas, particularly rural and suburban markets, where overall carrier capacity is greater due to more available spectrum relative to the existing population base. Contrary to the claims of AT&T and Verizon, nationwide access to data roaming services will greatly benefit those examples of off-network roaming that are both typical and occasional: business travelers,

[22] 14th Annual Competition Report at 6.

[23] *See generally* Comments of T-Mobile USA, Inc. at 9 ("In more sparsely populated areas, however, roaming arrangements with carriers who entered first (or purchased carriers who entered first) are more economically rational than a new build-out – both for T-Mobile and the head start carriers who likely have excess capacity on their networks in those areas.").

[24] Urban-centric carriers such as AT&T, Verizon, Sprint Nextel and T-Mobile, along with other players such as US Cellular, Cricket and MetroPCS, would rely on their own networks. Conversely, rural and small carriers would have multiple roaming options on both the major competing air interface technologies.

vacationers, and public safety users. Data roaming traffic on AT&T and Verizon by *non-customers* would be a drop in the bucket compared to data usage by their existing subscriber bases. This is in addition to the fact that off-network roaming diminishes the profitability of mobile carriers and provides a financial (i.e. revenue) benefit to the carrier providing the various roaming services. RTG members must provide service in rural markets as a criterion for full membership, and each member must have less than 100,000 subscribers. Approximately half of RTG's members have less than 10,000 subscribers. When aggregated, RTG members serve less than 3 million total subscribers spread out over rural parts of the country. AT&T and Verizon would never notice these subscribers' usage on their networks even if all of them roamed at the same time! Accordingly, should the FCC buy into AT&T's and Verizon's capacity argument, the FCC should carve out small rural carriers and allow them to roam on AT&T and Verizon so that their rural customers are not isolated to only getting data services in the rural markets in which they live.

A fourth reason why AT&T and Verizon's claims are unfounded is that data roaming access, just like voice roaming, comes at a financial cost to the home carrier, which in turn is an economic boon to the host carrier. Even if data roaming obligations were considered a network capacity burden to the host carrier, which as shown above they are not, the host carrier is paid for providing those services. After years of unbridled industry consolidation, and especially after the demise of ALLTEL Communications Corp., AT&T and Verizon are in a position where they are net recipients of domestic roaming traffic. All roaming traffic, voice or data, generates untold millions of dollars in operating revenue for either company. These funds could be used for the deployment of additional network base stations, backhaul conduits, spectrum, core network infrastructure, or a host of non-capital or operational expenses that will increase network

capacity. Given the monstrous market capitalization of both AT&T and Verizon, it is disingenuous for either to scream "poverty" in response to the theoretical costs of providing data roaming services to fellow domestic operators.

There is one additional, and definitely more troubling, public interest harm that will surface if automatic roaming obligations are not extended to data services, and it is one that AT&T has openly advocated. In the not too distant future, rapid technological advancements will make the public switched telephone network obsolete. Recognizing its eventual demise, AT&T calls the PSTN "a relic[] of a by-gone era" while prognosticating that the "business model that sustained circuit-switched voice service over the last century is dying."[25] There is no debate that the world is migrating on a fast-track to an IP-centric model. This technological inevitability, however, does not happen in a vacuum. Voice roaming obligations, which are considered a common carrier service, are dependent today upon the PSTN. Does this mean that the roaming obligations themselves become extinct when mobile wireless carriers and landline carriers complete the transition from circuit-switched networks to fully packet-switched networks? How will the FCC enforce not just data roaming, but any reasonable request for roaming service if there is in fact no PSTN component involved? The life expectancy of roaming as a common carrier service is a question the Commission must not only answer but also act upon to secure seamless, nationwide voice and data roaming for future generations.

The public interest benefits that RTG and numerous other commenters have presented to the Commission necessitate that automatic roaming obligations be extended to data services. Meanwhile, the potential public interest harms that AT&T and Verizon espoused in their filings

[25] *In the Matter of International Comparison and Consumer Survey Requirements in the Broadband Data Improvement Act, A National Broadband Plan for Our Future, and Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion,* Comments of AT&T Inc. on the Transition From Legacy Circuit-Switched Network To Broadband, GN Docket Nos. 09-47, 09-51, 09-137 (filed December 21, 2009) at pgs 1, 8.

are either overstated or not reconcilable with how the roaming marketplace works today or in the future. On balance, the public interest benefits stemming from obligatory data roaming requirements vastly outweigh the indeterminate and questionable public interest harms raised by AT&T and Verizon. Given its well founded legal authority detailed above and in the vast majority of comments submitted in this proceeding, the Commission should impose automatic roaming obligations on data services in a manner that mirrors those roaming obligations currently applicable to voice services.

Respectfully submitted,

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July 12, 2010