

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

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In the Matter of)	
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Review of Wireless Telecommunications)	WT Docket No. 10-131
Bureau Data Practices)	
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REPLY COMMENTS OF METROPCS COMMUNICATIONS, INC.

MetroPCS Communications, Inc. (“MetroPCS”),¹ by its attorneys, hereby respectfully submits its reply to the comments filed in response to the *Public Notice* (“*Notice*”) dated June 29, 2010, released by the Federal Communications Commission (the “FCC” or “Commission”) in the above-captioned proceeding.² Specifically, MetroPCS supports those commenters who recommend that the Commission streamline its Form 499 and Form 602 reporting requirements. The following is respectfully shown:

I. INTRODUCTION

In the *Notice*, the Wireless Telecommunications Bureau (the “Bureau”) seeks comment on the utility and rationale of its existing data collection practices and on the potential for improvement in those data collections.³ The Bureau also seeks comments on how to effect such

¹ For purposes of these Comments, the term “MetroPCS” refers to MetroPCS Communications, Inc. and all of its FCC-licensed subsidiaries.

² See Public Notice, *Pleading Cycle Established for Comments on Review of Wireless Telecommunications Bureau Data Practices*, WT Docket No. 10-131 (June 29, 2010) (*Notice*).

³ *Notice* at 1-2.

changes and in what ways they would benefit licensees, while still maintaining a system by which the Commission receives all data necessary to make fully-informed decisions.⁴

The Bureau is asking the right questions. MetroPCS favors efficiency and supports minimizing, to the extent reasonably practicable given the Commission's obligations, the burdens on all parties which are subject to the Commission's regulatory oversight. Both wireless licensees and the Commission will benefit from streamlined data collection processes. Eliminating unnecessary or overly burdensome filings allows carriers to commit more resources to serving their subscribers and enables the Commission staff to devote more time and attention to advancing the policies of the National Broadband Plan which promise accessibility of telecommunications advancements to all segments of the United States. In some cases, the current data collection efforts are rooted in the past, and in many cases the data being solicited is no longer relevant to the challenges faced by the industry and the Commission in the 21st century.

Data collection is not the end goal. Data is merely a means by which the Commission is able to gauge whether its policies are aimed in the right direction and properly implemented. Accordingly, data collection should be narrowly tailored to fit – but certainly should not exceed – the needs of the particular decision-making to which the data relates. Every data collection also should be reevaluated periodically with a bias toward eliminating anywhere the collected information has not been put to substantial regulatory uses. Thus, MetroPCS joins the chorus of commenters in the initial phase of this proceeding in calling on the Bureau to revise some of its data collection requirements to reflect more closely the current telecommunications markets and not to overburden licensees with unnecessary information requests.

⁴ *Id.*

Specifically, as is set forth in greater detail below, MetroPCS calls the Bureau's attention to FCC Form 499 and Form 602. Form 499 collects information regarding carriers' revenues, but the currently requested breakdown of revenue information does not reflect current wireless providers' billing practices or the way in which their services work. As a consequence, complying with these requests leads to unnecessary work and causes many carriers to have to estimate or use Commission safe harbors which may distort the data. Additionally, the collection of information regarding licensee ownership on FCC Form 602 calls for a level of detail that overburdens the licensee by soliciting non-material information. Thus, MetroPCS urges the Bureau to take a more focused view.

II. THE BUREAU SHOULD STREAMLINE SOME OF ITS DATA COLLECTION PROCESSES TO RELIEVE UNNECESSARY REPORTING BURDENS ON WIRELESS CARRIERS

A. THE BUREAU SHOULD STREAMLINE THE FORM 499 COLLECTION PROCESS

MetroPCS agrees with commenters calling upon the Bureau to streamline Form 499-A ("Form 499").⁵ The current format of Form 499 does not account for the way in which wireless carriers provide their services and, accordingly, overburdens them with unnecessary reporting distinctions and leads to carriers estimating their revenues or using Commission-promulgated safe harbors which tend to obfuscate the real data.

MetroPCS agrees with T-Mobile USA, Inc. ("T-Mobile") that the Bureau "should consolidate those portions of Form 499 that require wireless and interconnected VoIP to disaggregate local and long distance revenue."⁶ Almost all wireless carriers' service plans no

⁵ See Comments of T-Mobile USA, Inc., WT Docket No. 10-131, at 6-9 (filed August 13, 2010) ("T-Mobile Comments"); Comments of National Cable & Telecommunications Association, WT Docket No. 10-131, at 14 (filed August 13, 2010) ("NCTA Comments").

⁶ T-Mobile Comments at 6.

longer distinguish between local and long distance calls. This element of Form 499 is a relic of a time long passed; the Bureau's reporting requirements should reflect modern business practices. Requiring segregated local/long distance revenues reporting "imposes additional costs on providers that have no independent business reason to take this step."⁷ Furthermore, as T-Mobile points out, collection regimes, such as the Universal Service Fund, require only aggregated revenues in order to determine carriers' contribution levels.⁸ Further, to the extent a carrier does not have the systems in place, they are forced to estimate the actual breakdown or use Commission-promulgated safe harbors. Safe harbors, however, are not necessarily reflective of the actual breakdown of revenues and can lead to distortions, which could lead the Commission to use the data to reach wrong conclusions. Rather than splitting revenues into categories that are meaningless for wireless carriers, the Bureau should allow wireless carriers to record all revenue in a single section, with the potential exception of separately billed services, as opposed to bundled services, and distinct jurisdictionalized charges, such as those for international calls.

B. THE BUREAU SHOULD STREAMLINE ITS FORM 602 OWNERSHIP REPORTING TO ELIMINATE BURDENSOME, NON-MATERIAL FILINGS

MetroPCS also urges the Bureau to amend its filing requirements related to Form 602 ownership reports. Currently, any change in the ownership percentage held by a disclosable (10% or greater) interest holder must be reported every time a report is due to be filed. Thus, MetroPCS finds itself devoting considerable time and attention to ascertaining and reporting *de minimus* ownership changes that have no regulatory significance (e.g., a 10.42% interest becomes 10.68% due to other stock changes.) The Commission certainly is justified in having licensees identify all of their 10% or greater shareholders, but, as long as the percentage does not

⁷ *Id.* at 7.

⁸ *Id.*

reach or exceed 50%, the exact size of or changes in the minority percentage amount are of little if any significance.

Licensees also are required to identify on the ownership report all of the FCC-regulated businesses of each disclosable interest holder. Since many of the MetroPCS stockholders are venture capital firms and institutional investors with ever changing portfolios, maintaining a current list of all FCC-regulated businesses in which a minority investor holds an interest can be a daunting task. And yet, MetroPCS knows of no particular regular use that the FCC makes of this particular “FCC Regulated Business” information.⁹ In addition, many of these institutional investors – particularly in public companies – are completely passive and have no day-to-day impact outside of exercising their rights as shareholders. It would be completely appropriate – especially in the case of license holders which are public companies – to eliminate all of these special reporting requirements and rather have the licensee only be required to file the annual information required by the Securities and Exchange Commission.¹⁰

Further, in many cases a public company licensee is completely unaware that an institutional investor has taken a greater-than-10% position since the institutional investor often takes the stock in a street name that makes its investment largely invisible to the Company. The only time a public company licensee would discover a passive institutional investment greater

⁹ If a company is involved in an acquisition, sale or merger transaction which causes the Commission to want to consider whether other FCC-regulated businesses are implicated, it can ask for this information then. Requiring it to be filed with every ownership report is excessively burdensome. This is especially the case for public companies which may have passive investments of 10% or more by institutional investors. If the 10% or greater holder in a public company does not have any board or management rights or information rights different than other stockholders, it may make sense to completely eliminate anything other than the annual SEC report.

¹⁰ This also would eliminate the anomalous situation that exists now where the SEC regime and Commission reporting requirements lead to potentially different percentages requiring different calculations.

than 10% is through SEC filings, which are only due once a quarter and are not available until some time after the end of the quarter. Thus, public company licensees run the risk of filing an FCC Form 602 which is not accurate (or not filing 602 when ownership has changed). To make matters worse, many of these passive institutional investors are reluctant to provide the necessary information to properly fill out the Form 602 – especially if those investments in other regulated businesses are not otherwise disclosed.¹¹

Furthermore, MetroPCS concurs with Verizon and Verizon Wireless (“Verizon”) that the Bureau should clarify “that wholly owned wireless subsidiaries do not need to file a separate FCC Form 602 reporting ownership whenever the wholly owned subsidiary is listed on its parent company’s Form 602 and the parent company’s ownership report is current.”¹² The rules and instructions to Form 602 are vague in regards to this issue. Such a clarification would greatly reduce the burden on wireless carriers “while still providing the Commission with all of the same information relevant to the ultimate ownership of the wireless licensee.”¹³

III. CONCLUSION

MetroPCS believes that the Bureau and wireless licensees would be well served by a streamlining of the Bureau’s data collection practices as discussed above. Specifically, the Bureau should revise Form 499 to reflect more closely billing practices and business models of wireless carriers and Form 602 to reduce unnecessarily extensive accounting requirements of license stakeholders whose interests have not materially changed along with the material changes

¹¹ Indeed, other Commission rules should be updated to account for public companies – such as the foreign ownership requirements, anti-collusion rules, and any other rule that requires the licensee to get information from passive investors in public companies.

¹² Comments of Verizon and Verizon Wireless, WT Docket No. 10-131, at 9 (filed August 13, 2010) (“Verizon Comments”).

¹³ *Id.*

in holdings of others. MetroPCS urges the Bureau to streamline both of these forms in its review of all of its data collection processes. The Bureau would make the best use of its own resources and the resources of its licensees with these changes

Respectfully submitted,

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