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November 22, 2010

Via Electronic Delivery

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW, TW-A325
Washington, D.C. 20554

**Re: Notice of *Ex Parte*
Reexamination of Roaming Obligations of CMRS Providers
WT Docket No. 05-265**

Dear Ms. Dortch:

The Rural Telecommunications Group, Inc. (“RTG”) submits this letter in response to a recent *ex parte* filing by Verizon Wireless (“Verizon”) in which Verizon argues that proponents of data roaming have failed to show that market forces are not working to ensure that those mobile wireless carriers seeking 3G data roaming agreements are able to enter into them with other domestic carriers of their choosing.¹ Specifically, Verizon stated that “[t]he record shows that data roaming agreements are available to those that want them.”² If this were truly the case, there would be little or no record support for data roaming based on the inability to enter into data roaming agreements with Verizon or AT&T (the two mobile wireless carriers in the country that have repeatedly refused to enter into such agreements). The stark reality, however, is that dozens of mobile wireless carriers, in addition to RTG, have identified that the conduct of Verizon and AT&T with respect to data roaming is inconsistent with the Communications Act, various regulations, and the public interest.³

¹ Letter of Tamara Preiss to Marlene H. Dortch, Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers and Other Providers of Mobile Data Services, WT Docket No. 05-265 (filed November 5, 2010) (“*Verizon Ex Parte*”).

² *Supra*.

³ See e.g. *Ex Parte* of RTG (filed November 9, 2010); *Ex Parte* of MetroPCS Communications, Inc. (filed *Ex Parte* of T-Mobile USA, Inc. (filed November 10, 2010); *Ex Parte* of SouthernLinc Wireless (filed October 21, 2010); *Ex Parte* of Cellular South, Cincinnati Bell Wireless, Clearwire, Leap Wireless International and Cricket Communications, MetroPCS, National Telecommunications Cooperative Association, Organization for the Promotion and Advancement of Small Telecommunications Companies, Rural Cellular Association, Rural Telecommunications Association, SouthernLinc Wireless, Sprint, T-Mobile and US Cellular (filed October 27, 2010).

The *Verizon Ex Parte* purports to provide “evidence” of the carrier’s willingness to enter into and launch data roaming agreements with other domestic mobile wireless carriers. However, a closer examination of this “evidence” only reveals that Verizon is using clever editing and word choices in an attempt to persuade the Federal Communication Commission (“FCC” or “Commission”) that not only are requesting carriers complaining about a non-issue, but that Verizon is engaging in proactive measures to negotiate, execute and launch commercial data roaming agreements, including 3G roaming agreements, with any and all requesting domestic mobile wireless carriers. Verizon’s letter does nothing to refute the fact that inter-carrier domestic data roaming agreements with Verizon are: (1) difficult to obtain; (2) rarely, if ever, on reasonable terms; and (3) rarely include (3G) EVDO.⁴ Each of Verizon’s key factual assertions (quoted in bold) is addressed and qualified or refuted below.

“Verizon Wireless now has 65 active roaming partners.” Whether Verizon has one active roaming partner, or 65 roaming partners, or 650 roaming partners is irrelevant. What is relevant is whether *data roaming* is available to requesting carriers, whether at 2G or 3G. Verizon fails to assert that any of these roaming partners have agreements for data roaming. The FCC should require Verizon to provide it with a list of *domestic* carriers with whom it has data roaming agreements, indicating whether these agreements are for 2G or 3G data roaming services.

“Almost one third of those roaming partners either have not requested data roaming or made initial inquiries but then stopped actively seeking data roaming.” Aside from being completely subjective, this excerpt is in no way evidence of a fully functioning roaming marketplace nor of Verizon’s willingness to enter into data roaming agreements. Small and rural carriers, including RTG members, have on occasion stopped pursuing 2G and especially 3G data roaming agreements with Verizon, but typically they have done so for one very simple reason: after entering into negotiations Verizon has said “no” or priced the services in a manner that effectively means “no”. Rather than make repeated and demonstrably ineffective, requests on a bilateral basis, mobile wireless carriers have instead over the last two years resorted to using the Commission’s rulemaking proceeding in an attempt to obtain the agreements that Verizon proclaims to be offering. More importantly, Verizon’s claim effectively means that over two-thirds of Verizon’s roaming partners have requested data roaming, without, as discussed below, there being any record evidence that *any* of these partners have been able to enter into such agreements.

“Of the roaming partners that want data roaming, about 75 percent have an agreement, and most of the others are in discussions with Verizon Wireless towards an agreement.” This excerpt leaves more questions than it answers. What kind of “agreement” do these partners have? Do the 75 percent already have *data* roaming agreements with Verizon or do they merely have *voice* roaming agreements? Do the 75 percent have *1xRTT* data roaming agreements with Verizon but request (and are denied) *EVDO* data roaming agreements? Anecdotal evidence suggests that Verizon has an unofficial domestic roaming policy of only granting data roaming agreements to those carriers willing to accept a narrow range of terms, and typically at a technology generation one step below what the requesting carrier offers to its own customers. In practical terms, this means that a request by a CDMA carrier to enter into a 3G

⁴ Similarly, without data roaming obligations, the prospects of domestic mobile wireless carriers ever entering into LTE (4G) roaming agreements with Verizon are remote at best.

(EVDO) data roaming agreement will usually result in a unilateral 2G (1xRTT) data roaming agreement, even if both parties offer 3G exclusively to their retail customers.⁵ As RTG has mentioned numerous times in its previous filings, U.S. carriers need a nationwide voice and data footprint to remain competitive in the mobile wireless marketplace, and because only a select few carriers have licenses nationwide, voice and data roaming is a crucial component of any competitive offering. Furthermore, when a carrier is only able to offer its customers nationwide data speeds significantly slower than what its competitors are offering, that limits the carrier's attractiveness to new and existing customers, regardless of how robust and technologically advanced the home carrier's network and device offerings are.

“Verizon Wireless entered into 7 more EVDO roaming agreements in just the past 6 months; about half of our data roaming agreements now are for EVDO. Another 7 roaming partners have projects under way to implement EVDO roaming with Verizon Wireless.” These statements by Verizon are not as promising as Verizon would like the Commission to believe. For instance, of those *existing* EVDO roaming agreements, how many are international and how many are domestic? How many of the agreements were inherited from ALLTEL? How many of those pending EVDO agreements are for the few markets nationwide where Verizon does not have 850 MHz licenses? Absent a detailed showing by Verizon of the exact number of domestic carriers that have data roaming agreements, this vague and misleading “evidence” should be ignored.

“Verizon Wireless will offer 4G data roaming to participants in its LTE in Rural American [sic] program.” While RTG is on the record applauding Verizon's announcement in May 2010 that it will enter into 4G (LTE) roaming agreements with small and rural mobile wireless carriers, RTG remains apprehensive about the true intent and scope of such an offering. Dozens of domestic mobile wireless carriers have spent the better part of four years petitioning the Commission and updating the public record with verifiable evidence of an industry-wide desire to make 2G and 3G data roaming agreements incumbent upon all carriers, including Verizon. While RTG and its members desire an industry where LTE roaming agreements are readily entered into by all mobile wireless carriers, RTG's members cannot wait for vague promises by either of the two carriers to come to fruition when such carriers continue to take the position that data roaming is not in the public interest.

In addition to the aforementioned arguments, the *Verizon Ex Parte* cites to data roaming between *other* mobile wireless carriers and the relative availability of the Internet through various WiFi providers as support for its argument that data roaming is widely available. Neither of these circumstances lends any support to Verizon's arguments. The fact that other carriers have chosen to provide data roaming in no way diminishes the harmful impact on competition in the mobile wireless marketplace from the refusal of the two carriers with a disproportionately large market share to extend data roaming to their smaller competitors. The gradual removal of other large CDMA carriers (i.e. ALLTEL) has pushed all the remaining CDMA operators unable to secure data roaming agreements with Verizon to extend data roaming to other remaining technologically compatible carriers, *despite them being direct retail competitors*. Until a data roaming obligation is instituted, entering into such agreements is the only means by which to approach any semblance of a nationwide footprint. The availability of WiFi is irrelevant to the

⁵ There is a corollary policy with AT&T as well. Typically, an offer by a GSM carrier to enter into a 3G (UMTS/HSPA) roaming agreement with AT&T will result in a unilateral 2G (GPRS/EDGE) roaming agreement, even if both parties offer 3G exclusively to their retail customers.

issue of data roaming. First, it is a completely distinct wireless technology operating on unlicensed spectrum. Second, WiFi has no “handover” capabilities, which makes it anything but a “mobile” technology. Third, the existing coverage of WiFi hotspots is a small fraction of that provided by CMRS carriers, and all but absent in rural America. Finally, even if WiFi was viewed as a viable alternative to data roaming, it would be impractical to aggregate such coverage into any meaningful footprint for commercial use.

When it comes to providing “evidence” of a functioning data roaming marketplace (and Verizon’s own attempts to meet the needs of its roaming partners) the *Verizon Ex Parte* leaves much to be desired. The nuanced language and large percentages and numbers contained in the *Verizon Ex Parte* gloss over the factual reality that data roaming agreements with AT&T and Verizon that allow for the provisioning of data roaming on a level playing field are simply unavailable to virtually all competing mobile wireless carriers. RTG encourages the Commission to focus on the prime motivation for this entire proceeding: the right of consumers to be able to roam, whether for voice or data, versus the tactics of the country’s two largest carriers to stifle competition and prevent other carriers from competing on a level playing field.

If you have any questions, please communicate directly with the undersigned.

Respectfully submitted,

Rural Telecommunications Group, Inc.

/s/ Caressa D. Bennet

By: _____

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cc (via email):

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