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March 30, 2011

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Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Re: WT Docket No. 05-265 (Data Roaming)

Dear Ms. Dortch:

On March 29, 2011, Mark A. Stachiw, Executive Vice President, General Counsel and Secretary of MetroPCS Communications, Inc. (“MetroPCS”), along with Carl W. Northrop and Michael Lazarus of Paul, Hastings, Janofsky & Walker LLP (“Paul Hastings”) met with the following Commission personnel: (i) Margaret McCarthy, Legal Advisor to Commissioner Copps; (ii) Louis Peraertz, Legal Advisor to Commissioner Clyburn; (iii) Charles Mathias, Legal Advisor to Commissioner Baker; (iv) Angela Giancarlo, Legal Advisor to Commissioner McDowell; and (v) Edward Lazarus and Rick Kaplan of Chairman Genachowski’s office, Austin Schlick and David Horowitz of the Office of General Counsel, and James Schlichting of the Wireless Telecommunications Bureau. The oral presentations made during the meeting were consistent with the pleadings and *ex partes* filed on behalf of MetroPCS in the above-referenced proceeding.

In particular, MetroPCS discussed the following issues. First, it noted its support for the adoption of an Order that promulgates rules that will foster data roaming. Data roaming is a necessity both for carriers such as MetroPCS to compete more effectively with nationwide carriers and for customers and essential for potential customers to enjoy the ability to use both voice and data services over their mobile devices when they travel outside of their home carrier’s network.

Second, MetroPCS discussed the potential benefit to the Commission of tying its jurisdictional analysis to specific unique aspects of data roaming, in order to bolster its finding of authority. For instance, MetroPCS asserted that the Commission should emphasize (1) the benefits and necessity of having nationwide voice and data services over mobile devices; (2) the need for nationwide compatibility; and (3) the current spectrum crunch, which limits carriers from acquiring additional spectrum in order to build out additional areas of their network. MetroPCS also noted that the Commission should preserve its ability in the future to revisit the issue that data roaming may be considered functionally equivalent to CMRS. There is a possibility that there will be increased concentration in the wireless market in the future. In addition, with the continued convergence of voice and data services, particularly with the impending move of certain

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carriers to providing VoIP over their wireless networks, it will become increasingly difficult to distinguish between a voice packet and a data packet. Due to such developments, the Commission must ensure that it does not preclude itself from strengthening the data roaming obligations it may adopt here in the future.

Third, MetroPCS discussed the necessity of allowing carriers to have the ability to secure data roaming on all lesser included generations of technologies throughout the nation as long as the host carrier has implemented service to the public in a meaningful fashion at an equal or higher generation of technology. For example, if a company has built out particular areas of its network to 4G, it should be able to secure data roaming not only upon the 4G networks of a roaming carrier, but of lesser included technologies, such as 3G as well. This lesser included technology rule should not be limited to a particular technology platform. For example, since MetroPCS has broadly implemented 4G LTE technology, its roaming customers should be able to do 4G LTE data roaming, but also get 3G roaming (both EVDO and HSPDA) regardless of whether MetroPCS deploys CDMA or GSM in its own network. This is critical in order to enable customers to have the best possible data experience when roaming outside of their home network. In addition, carriers should be able to secure data roaming over any frequency in which it has built out a newer technology in a particular area (i.e., if a carrier has deployed 4G over AWS spectrum, it should have the ability to secure data roaming from a carrier that has deployed 4G over 700 MHz spectrum – to the extent the asking carrier is able to obtain handsets that are able to utilize both frequencies).

Fourth, MetroPCS urged the Commission, in its determination of whether an offer of data roaming is “commercially reasonable,” to specify that such a determination may include what the potential roaming carrier is charging other carriers, what a roaming requester is paying other carriers, and the costs of providing service. While such information need not be determinative, the Commission should acknowledge the relevance of such information in the overall determination of what is “commercially reasonable.”

Lastly, MetroPCS discussed the necessity for a well-defined dispute resolution process that will foster the prompt resolution of disputes. Such a dispute resolution process should be conducted on an expedited basis, and include adequate discovery, including, potentially, the costs involved in providing data roaming services and what each carrier pays or is paid for similar services, in order for parties and the Commission to have a complete picture as to what may be commercially reasonable. Such a process should provide incentives for carriers to reach voluntary agreements, and thus must allow for the parties to obtain enough information to be able to negotiate on a level playing field.

Kindly refer any questions in connection with this letter to the undersigned.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Carl W. Northrop', written in a cursive style.

Carl W. Northrop  
of PAUL, HASTINGS, JANOFSKY & WALKER LLP

cc: (via email) Margaret McCarthy  
Louis Peraertz  
Charles Mathias  
Angela Giancarlo  
Edward Lazarus  
Rick Kaplan  
Austin Schlick  
David Horowitz  
James Schlichting

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