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March 31, 2011

VIA ELECTRONIC FILING

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

Re: Notice of Oral *Ex Parte* Communication:
WT Docket No. 05-265 – Further Notice of Proposed Rulemaking in the Matter of Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers
RM No. 11592 – Petition for Rulemaking Regarding 700 MHz Band Mobile Equipment Design and Procurement Practices

Dear Madam Secretary:

In accordance with Section 1.1206 of the Commission's rules, 47 C.F.R. Section 1.1206, we hereby provide you with notice of an oral *ex parte* presentation in connection with the above-referenced proceeding. The presentation occurred on March 30, 2011 in a meeting with Commissioner Mignon Clyburn and Louis Peraertz, Legal Advisor to Commissioner Clyburn. Attending the meeting on behalf of Cellular South, Inc. ("Cellular South") were Ben Moncrief, the company's Manager of Public Policy, Kevin Joseph, legislative consultant to Cellular South, and David Nace, attorney for Cellular South.

Discussion concerned an item listed on the tentative agenda for the Commission's April 7, 2011 meeting – "Data Roaming Second Report and Order." Cellular South supports action by the Commission to extend automatic roaming obligations for carriers to non-interconnected data services when there is network compatibility. The Commission has jurisdiction under Title III of the Communications Act to regulate radio transmission regardless of whether it is used to

provide a “telecommunications” or an “information” service. In this instance, a rule that requires wireless carriers to negotiate automatic data roaming agreements with commercially reasonable terms will promote the public interest by promoting safety of life and property, and encouraging competition among service providers for the benefit of the public. Data roaming is needed by Cellular South to develop a viable business plan to construct 700 MHz facilities under licenses purchased in Auction No. 73 so that broadband services will be available both in the rural and small markets that Cellular South serves and in other areas where its customers travel.

Cellular South respectfully urges the Commission not to create an “in-market” exception to any data roaming obligations. The “in-market” exception to the voice roaming rule was eliminated May 29, 2010 upon reconsideration of that exception.¹ Build-out of networks is presently required under Commission rules that pertain to each block of licensed spectrum. Those build-out requirements are especially aggressive for Lower 700 MHz Band, frequency Blocks A and B in order to promote broadband service availability. An in-market exception to roaming obligations would be counterproductive to efforts of carriers to build out a licensed area in commercially viable phases because customers could be denied the ability to make use of their wireless devices as they travel through areas where the home carrier is still working to expand its network.

As a related matter, there is an urgent need for wireless devices to be operable on the wireless networks of all carriers that have compatible networks. That need is relevant to successful roaming by customers and by public safety first responders, and to promote competition among wireless service providers. For 700 MHz spectrum use in particular, the feasibility of build-out is a circular problem if carriers (1) cannot offer roaming on other networks and (2) that lack of ability to offer roaming (in or out of market) slows deployment. To the extent network build-out slows due to limitations on roaming and device interoperability, the goal of expanding broadband service to rural areas is frustrated. Cellular South asks that the Commission move forward with a rulemaking notice promptly to assure that devices have capability to operate on frequency blocks licensed to other carriers with compatible networks. The need is especially acute as it relates to Lower 700 MHz Band, frequency Block A spectrum.

Sincerely,

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

David L. Nace

¹ *Order on Reconsideration*, WT Docket No. 05-265, 25 FCC Rcd 4181 (2010). “Upon reconsideration...we conclude that the up-front categorical home roaming exclusion adopted by the 2007 *Report and Order* would in many circumstances discourage, rather than encourage, the facilities-based competition it sought to promote.” (para 18)

cc: Commissioner Mignon Clyburn (by email)
Louis Peraertz (by email)
Best Copy and Printing, Inc. (by email)