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August 14, 2012

BY ELECTRONIC COMMENT FILING SYSTEM

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554

Re: Amendments of Parts 1, 2, 22, 24, 27, 90, and 95 of the Commission's Rules to Improve Wireless Coverage Through the Use of Signal Boosters, WT Docket No. 10-4 – Ex Parte Communication

Dear Ms. Dortch:

MetroPCS Communications, Inc. ("MetroPCS"),<sup>1</sup> by its undersigned counsel, hereby respectfully submits this written ex parte expressing its view that customers should not be permitted to operate a consumer signal booster on a licensee's exclusive spectrum without the licensee's express consent. Consistent with MetroPCS' previous filings in this docket, MetroPCS urges the Commission to recognize that allowing signal booster devices to operate on licensed spectrum without the consent of the licensee conflicts with the law, Commission policy and precedent, and would not serve the public interest.

## **I. Background**

In June 2012, Wilson Electronics, Verizon Wireless, Nextivity, Inc., T-Mobile USA, Inc., and V-COMM L.L.C., submitted a proposal (the "Joint Proposal") advocating that a signal booster "blanket licensing" rule be added under the Commission's Part 20 rules.<sup>2</sup> Due to a lack of consensus among the proponents of the Joint Proposal, the proposal does not resolve whether licensee consent is required prior to a customer being authorized to operate a consumer signal booster on that licensee's exclusively licensed spectrum, and reserved the right for the parties to comment on this issue independently.<sup>3</sup> On July 13, 2012, Wilson Electronics, Inc. ("Wilson") filed an ex parte which argued that no licensee consent should be

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<sup>1</sup> For the purposes of this ex parte communication, the term "MetroPCS" refers to MetroPCS Communications, Inc. and all of its FCC license-holding subsidiaries.

<sup>2</sup> Letter from Nextivity, Inc., T-Mobile USA, Inc., V-COMM L.L.C., Verizon Wireless and Wilson Electronics to Marlene H. Dortch, Secretary, Federal Communications Commission, WT Docket No. 10-4 (June 8, 2012) ("Joint Proposal Ex Parte").

<sup>3</sup> Id. at 2.

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required prior to a consumer operating a signal booster on that licensee's exclusive spectrum.<sup>4</sup> On July 20, 2012, AT&T, Inc. ("AT&T") responded to the Wilson July 13 Ex Parte supporting many elements of the Joint Proposal provided that licensee consent is required and the Commission takes steps to establish a manufacturer-funded central database to register devices and implements an adequate enforcement program.<sup>5</sup>

MetroPCS strongly agrees with AT&T. One major concern, from MetroPCS' perspective, is that certain signal boosters are broad spectrum amplifiers that amplify all CMRS signals that are presented, rather than repeating only the signal of a single consumer on a single frequency. This creates the distinct possibility that a signal booster could generate interference on multiple networks at the same time. MetroPCS has experienced such interference on its networks in the past. It is difficult to isolate and resolve such interference when the licensee is unaware of what signal boosters are in fact in use on its network and who is responsible for their operation. The problem is exacerbated by the fact that some manufacturers – including Wilson<sup>6</sup> – offer "mobile solutions" and the portable nature of these mobile signal boosters makes detection difficult. And, the fact that these amplifiers may amplify the signals of multiple consumers at the same time further complicates the problem since the carrier does not know who is operating the signal booster and thus, has no ability to contact the consumer to turn off the interfering signal booster. Given the increasing use of wireless technology for emergency communications, including E911 calls, it is especially important that the Commission not adopt any rules that could impact a consumer's ability to receive needed emergency services. From a practical standpoint, the only way to ensure that signal boosters do not impede a licensee's ability to offer critical services to consumers is to make sure that any signal boosters are authorized by the carrier to operate on the licensee's network.

As is set forth in detail below, the arguments made by Wilson are wrong. The Commission simply lacks the authority to authorize signal boosters by rule on spectrum exclusively licensed to CMRS carriers. And, even if the Commission had the authority, such an approach would not serve the public interest.

## **II. Wilson has Failed to Justify Blanket Authorization Without A Licensee's Consent**

In the Wilson July 13 Ex Parte, Wilson makes several arguments against a licensee consent requirement. Each of the arguments is wide of the mark.

### **A. Section 301 Prohibits Third Party Use of Signal Boosters on Exclusive Use Spectrum Without a License or Licensee Consent**

Section 301 of the Communications Act of 1934, as amended (the "Act"),<sup>7</sup> provides that "[n]o person shall use or operate any apparatus for the transmission of energy or communications or signals by

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<sup>4</sup> Letter from Russell D. Lukas, Attorney For Wilson Electronics, Inc. to Marlene H. Dortch, Secretary, FCC, in Docket No. 10-4, 1 (Jul. 13, 2012)(the "Wilson July 13 Ex Parte").

<sup>5</sup> Letter from Jeanine Poltronieri, Attorney For AT&T, Inc. to Marlene H. Dortch, Secretary, FCC, in Docket No. 10-4, 1 (Jul. 20, 2012)(the "AT&T July 20 Ex Parte").

<sup>6</sup> See <http://www.wilsoselectronics.com//mobile-solutions.aspx>.

<sup>7</sup> 47 U.S.C. § 301.

radio ... except in accordance with this Act and with a license ... granted under the provisions of this Act.”<sup>8</sup> A consumer is a “person” subject to the Act and a signal booster is an apparatus that transmits radio energy. Accordingly, a license is required in order for a customer to operate a signal booster. Nonetheless, Wilson seeks to dismiss as “unsupported” the AT&T claim that Section 301 of the Act “precludes the Commission from authorizing the use of third-party, consumer signal boosters on CMRS carriers’ exclusive-use spectrum without a license or licensee consent.”<sup>9</sup> Specifically, Wilson contends that AT&T’s Section 301 claim “was implicitly rejected in the [signal boosters] NPRM, where the Commission held that it had the authority under Section 307(e) of the Act to license the operation of consumer signal boosters under new part 95 of the rules.” This argument is simply wrong.

Section 307(e) empowers the Commission to authorize the operation of radio stations without individual licenses by rule in only four distinct radio services: the citizens band radio service, the radio control radio service, the aviation radio service and the maritime radio service.<sup>10</sup> Since Section 307(e) is expressly limited only to those distinct services set forth in Section 307(e), this statutory section has no bearing on the Joint Proposal which proposes to authorize signal boosters under Part 20 governing the commercial mobile services. Notably, this lack of authority cannot be cured by putting the new rule into Part 95 and claiming that it is part of the citizens band radio service. The exception for “citizens band radio service” cannot provide the basis for concluding that a license is not required for signal boosters operating on CMRS spectrum. At the time Section 307(e) was enacted, Congress knew what citizens band service meant – a service in which individuals on frequencies reserved for private communications – communicated with other individuals. In fact, Part 95, which governs citizens band radio service, limits the frequencies on which such transmitter may operate to 40 channels located in the 27 MHz band<sup>11</sup> and does not allow remote operation,<sup>12</sup> networks<sup>13</sup> or amplifiers.<sup>14</sup> While the Commission has expanded the definition to include Family Radio Service, Low Power Radio Service, Medical Device Radiocommunication Service, Wireless Medical Device Telemetry Service, the Multi-Use Radio Service, and the Dedicated Short Range Communications Service On-Board Units,<sup>15</sup> none of these are a common carrier service and each are specifically focused either on another exemption (such as the maritime service) or for non-networked services like CMRS.

Accordingly, Section 307(e) provides absolutely no authority for operations without an individual license in the common carrier Public Mobile Service. To the contrary, by narrowly limiting the

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<sup>8</sup> Id.

<sup>9</sup> Wilson July 13 Ex Parte at 5-6 (citing AT&T July 20 Ex Parte at 4).

<sup>10</sup> 47 U.S.C. § 307(e). The Commission sought comment in the signal booster NPRM on whether signal boosters could be licensed as part of the citizen’s band radio service under Part 95. MetroPCS assumes that the Commission abandoned this approach because signal boosters bear no discernible relationship to the private Citizens Band Radio Service as defined in Subpart D of Part 95. While Section 307(e) of the Act gives the Commission some latitude to define citizen’s band radio service, the Commission certainly cannot eviscerate the explicit licensing requirements in the Act by artificially defining what is clearly a common carrier public mobile serve as citizen’s band service. As correctly noted by AT&T, “[s]uch an approach would render section 301 meaningless.” AT&T July 20 Ex Parte at 4.

<sup>11</sup> 47 C.F.R. § 95.407(a).

<sup>12</sup> Id. at § 95.419(a).

<sup>13</sup> Id.

<sup>14</sup> Id. at § 95.411.

<sup>15</sup> Id. at § 95.401.

Commission's authority to license stations by rule "[n]otwithstanding any license requirement established in this Act" to only the four distinct radio services listed in Section 307(e) – not including the Public Mobile Service – Section 307(e) directly contradicts the Wilson claim that 307(e) somehow trumps the explicit licensing requirements of Section 301 with respect to the Joint Proposal.<sup>16</sup> Signal boosters clearly fit the definition of an "apparatus for the transmission of energy or communication or signals by radio"<sup>17</sup> and therefore fall squarely within the scope of Section 301 regulation. In order to operate on spectrum exclusively licensed to a licensee, the licensee's express consent is required.

### **B. Blanket Licensing Under the Licensee's License Requires Licensee Consent**

Wilson next claims that properly-certified signal boosters are eligible for "blanket licensing" under Section 1.903(c) of the rules without regard to whether or not the underlying carrier consents.<sup>18</sup> According to Wilson, the Commission allows subscribers "to operate mobile units of their own choosing under the carrier's blanket authorization without obtaining the carrier's consent."<sup>19</sup> This too misunderstands the current scheme. Indeed, the very Order cited by Wilson specifically states that "[t]he subscriber ... must use only those mobile units which the carrier has agreed to serve."<sup>20</sup> This is an explicit acknowledgment of the carrier consent requirement even for wireless units on a licensee's network. Moreover, while mobile units currently are authorized under the CMRS carrier's blanket license, a signal booster is not the same kind of device as a mobile unit. Mobile units are activated on a specific network and operate under the direct control of that network. Signal boosters, however, are not devices which are controlled by or under the control of the licensee, nor under Wilson's scheme activated by the licensee. If a signal booster was in fact under the control of the CMRS licensee, then the licensee could reduce power when necessary and/or eliminate interference. Here, the signal booster is an autonomous device which is not directly controlled by the CMRS network. Accordingly, even if Wilson were right, which it is not, that the current blanket rule allows subscriber devices to operate under a CMRS license, the signal boosters are not devices operating under the licensee's control.

Wilson also errs in claiming that CMRS subscribers in good standing are not required to obtain the consent of the licensee before operating mobile or fixed stations of their choosing under the carrier's license.<sup>21</sup> This again misunderstands the relationship of the subscriber to the CMRS carrier. No subscriber receives service from a CMRS carrier without the carrier taking specific steps to initiate the service and authorize the customer's mobile unit within the system. If the customer does not activate service, that customer will not be able to operate its mobile unit.<sup>22</sup> Again, this is an explicit consent process and the claim by Wilson that no such consent is required is contrary to the objective facts.

Contrary to the assertion of Wilson, the failure of the Commission to issue an immediate declaratory ruling on the issue of carrier consent with respect to signal boosters in response to the CTIA

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<sup>16</sup> 47 U.S.C. § 307(e)(1).

<sup>17</sup> *Id.* at § 301.

<sup>18</sup> Wilson July 13 Ex Parte at 6.

<sup>19</sup> *Id.*

<sup>20</sup> See Individual Radio Licensing Procedures, 77 FCC 2d 84, 86 (1980) (emphasis added).

<sup>21</sup> Wilson July 13 Ex Parte at 6.

<sup>22</sup> The only exception to this rule is that CMRS carriers are obligated to serve inactivated mobile units making E911 calls. Even then, the unit must be compatible to operate on the network – e.g., a GSM phone cannot receive CDMA E911 service.

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request for a declaratory ruling filed in 2007<sup>23</sup> does not mean that no such consent requirement exists. Section 4(j) of the Act gives the Commission wide discretion to “conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice.”<sup>24</sup> Here, by soliciting comment in the NPRM, the Commission fostered a process that has led to the formulation of operational requirements, interference safeguards and technical standards in the form of Safe Harbors that enjoy broad industry support – even from AT&T.<sup>25</sup> The Commission’s decision to take this deliberative path does not, nor can it, in any way undermine the legal conclusion that operations under the blanket license of a carrier require carrier consent.

### C. The Commission’s Roaming Rules Do Not Support Wilson’s Position

The Wilson July 13 Ex Parte seeks comfort in the Commission’s Data Roaming Order.<sup>26</sup> Specifically, Wilson claims that authorizing signal boosters without carrier consent would be analogous to requiring carriers to provide data roaming services by “facilitating the provision of mobile services in a manner that provides the greatest benefit to consumers.”<sup>27</sup> However, the claim by Wilson that authorizing signal boosters without licensee consent would be a “pro-consumer policy”<sup>28</sup> does not serve to grant the Commission statutory authority. It is well-settled that the Act does not give the Commission a boundless charge to regulate radio services according to its latest perception of the public interest. “The FCC cannot act in the ‘public interest’ if the agency does not otherwise have the authority to promulgate the regulations at issue.”<sup>29</sup> Here, the licensing requirement of Section 301 of the Act deprives the Commission of such authority.

Notably, the FCC’s Data Roaming Order does not run afoul of Section 301. Roamers operate their handsets under the blanket license of the serving carrier. When mobile units roam, the mobile units are only provided service if the serving carrier authorizes service. This is typically done through a relationship with a reseller, such as American Roamer. When a customer utilizes automatic roaming, the home carrier has entered into an agreement with the serving carrier to have the serving carrier authorize the home carrier’s customers to use the serving carrier’s network. This agreement serves to qualify the party seeking roaming service as a “qualified roamer.” In this manner, the licensee consent requirement is met for the mobile equipment to be served without an individual license.<sup>30</sup> Thus, in automatic

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<sup>23</sup> See Petition for Declaratory Ruling of CTIA – The Wireless Association, WT Docket No. 10-4 (filed Nov. 2, 2007).

<sup>24</sup> 47 U.S.C. § 154(j).

<sup>25</sup> There could be a number of reasons why the Commission did not issue the requested Declaratory Ruling – such as that none was needed since the rules were clear, the Commission had higher priorities, or that the issue was not yet ripe. If the Commission agrees with Wilson, then any request for Declaratory Ruling not acted upon by the Commission would allow petitioners to estop the Commission from enforcing its rules – which is an untenable position for the Commission and would not serve the public interest.

<sup>26</sup> *Rexamination of Roaming Obligations of CMRS Providers and Other Providers of Mobile Data Services*, 26 FCC Rcd 5411 (2011) (Data Roaming Order).

<sup>27</sup> Wilson July 13 Ex Parte at 8 (citing Data Roaming Order, 26 FCC Rcd at 5415).

<sup>28</sup> *Id.*

<sup>29</sup> *Motion Pictures Ass’n of America, Inc. v. FCC*, 309 F.3d 769, 806 (D.C. Cir. 2002).

<sup>30</sup> Wilson also can gain no comfort in the sweeping language it quotes from the Data Roaming Order as to the Commission’s “broad authority to manage spectrum . . . and modify . . . spectrum usage conditions in the public interest.” Wilson July 13 Ex Parte at 7 (quoting Data Roaming Order, 26 FCC Rcd at 5440). The scope the Commission’s authority in this regard is under challenge in the courts in several high profile cases. See, e.g., *Verizon v. FCC* (Case No. 11-1355) and *MetroPCS v. FCC* (Case No.

roaming, a mobile unit is not permitted to roam on the serving carrier unless both the home and the serving carrier have authorized the subscriber on the service. Accordingly, Wilson cannot claim that the obligation to serve roamers supports an obligation to allow signal boosters.

#### **D. Encumbering Exclusive Licenses Without Licensee Consent Is Contrary to the Public Interest**

Wilson argues that CMRS licensees do not own their spectrum even if it has been licensed to them for exclusive use and states that “[t]he fact that a licensee has purchased CMRS exclusive-use spectrum either at auction or in the secondary market does not exempt it from Commission regulation in the public interest. . . .”<sup>31</sup> This argument misses the point. Even if the Commission had the authority to subject CMRS licensees to post-auction obligations – which is not the case here – it is not a good idea. Auction participants who decide to acquire CMRS licenses do so with the reasonable expectation that they will “have exclusive use of their licensed frequencies, act as the licensee of all transmitting devices on their spectrum, and [would be] required to maintain control over all devices operating on their networks.”<sup>32</sup> The Commission risks completely undermining its auction process if it fails to honor these reasonable expectations by allowing third parties to “crash” the exclusive spectrum of auction winners after the fact. Investment in and deployment of spectrum will be adversely affected. “[F]uture auction participants [will] reduce their valuation of ‘exclusive-use’ spectrum based on the precedent that [is proposed] here – the creation of a new, secondary service that would operate on formerly exclusive spectrum.”<sup>33</sup> Reduced investment means that the public will fail to recoup fair value for the public airwaves that are sold at auction.<sup>34</sup> In sum, adopting the Wilson proposal would not be in the public interest even if the Commission had the authority to do so.

#### **E. The Carrier Consent Requirement Would Not Nullify the Safe Harbors**

Wilson argues that imposing a carrier consent requirement would “defeat the purposes of establishing a safe harbor for consumer signal boosters,”<sup>35</sup> and further predicts that, if the Commission requires both technical safeguards and carrier consent, then it would be “invi[si]ble carriers to block consumer access to that safe harbor.”<sup>36</sup> MetroPCS disagrees. With the proposed safe harbors in place, carriers will be much more likely to consent to signal booster requests because the licensees will have the extra security of knowing that such devices have been designed to comply with network requirements and

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11-1403) (D.C.Cir.)(Net Neutrality Appeals); see also *Verizon v. FCC* (Case No. 11-1135)(D.C.Cir.)(Data Roaming Appeal). Notably, in citing the Data Roaming Order, Wilson neglected to reference the pending appeal.

<sup>31</sup> Wilson July 13 Ex Parte at 7-8.

<sup>32</sup> AT&T July 20 Ex Parte at 4 (citing 47 C.F.R. §§ 1.903(a), (c); 22.3, 22.3(b), 22.305).

<sup>33</sup> Comments of T-Mobile USA Inc., in Docket No. 10-4, 6 (filed July 25, 2011).

<sup>34</sup> This is especially true as the Commission’s rules provide that a portion of the funds stemming from value of the spectrum be recovered for the public. See 47 USC § 309(j)(13)(B).

<sup>35</sup> Wilson July 13 Ex Parte, 1.

<sup>36</sup> Id. at 5. Wilson continues to state that “[a]ll the Commission would accomplish by requiring carrier consent would be to empower licensees to arbitrarily prohibit consumers from using signal boosters to improve coverage without network harm, thereby depriving them of their right to choose to operate properly-designed signal boosters in order to receive the maximum benefit from their wireless service.” Id. at 9.

reduce the prospects of interference.<sup>37</sup> Even AT&T, a strong proponent of the carrier consent requirement, has recognized that these safeguards “appropriately balance the needs of wireless providers to protect the integrity of their networks with the potential of signal boosters to benefit consumers by improving and extending coverage.”<sup>38</sup>

### **III. The Commission Should Not Issue the Advisory Opinion Wilson Seeks**

Wilson claims that a blanket refusal by a carrier to consent to the use of signal boosters would be a violation of the carrier’s obligations under sections 201 and 202 of the Act, and urges the Commission to “explicitly declare that a carrier would violate § 201 and/or § 202 (a) if it unreasonably withheld its consent, or if it unreasonably discriminated among requests for consent, to use signal boosters.”<sup>39</sup> In effect, Wilson is seeking a prospective declaratory ruling in the absence of a case or controversy. This request should be denied.

No carrier has indicated in this proceeding an intent to adopt a blanket prohibition on the use of signal boosters on their spectrum. Nor has any carrier signaled an intention to discriminate among and between signal booster users who may be similarly situated. To the contrary, carriers have devoted considerable time and attention to a collective good faith effort to formulate technical and operating standards that hold promise to reduce the prospects of harmful interference. This effort reflects the fact that both carriers and customers can benefit if signals are enhanced without adverse consequences. There simply is no reason for the Commission to assume, and no basis for Wilson to allege, that carriers will not act in good faith.<sup>40</sup> Under these circumstances, the ruling Wilson is seeking would be in the nature of an advisory opinion in circumstances where there is no active case in controversy and no demonstrated need for clarification. Section 1.2 of the Commission’s rules only allows for a declaratory ruling for the purpose of “terminating a controversy or removing uncertainty.” Neither condition is met here.<sup>41</sup> Further, such a ruling would not allow the Commission to make the individualized decisions it will need to make in assessing whether a carrier’s action are in fact discriminatory. Because the record is devoid of any facts that the carriers would in fact discriminate, it is premature for the Commission to conclude that a refusal would violate Sections 201 or 202 of the Act.

### **IV. Conclusion**

MetroPCS’ primary concern is that, without a protective carrier consent requirement, the opportunities for harmful interference will increase, while the ability to detect and remedy such

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<sup>37</sup> There may be valid reasons why a carrier would not allow a signal booster that meets the technical standards on a particular system at a particular time. In some circumstances, a compliant signal booster may cause interference by its operation in a particular place – such as crowded area where a Cellular on Wheels (COW) is deployed. Further, carriers need registration of signal boosters so they know who to contact in the event that interference occurs as result of the use of the signal booster.

<sup>38</sup> AT&T July 20 Ex Parte at 2-3.

<sup>39</sup> Wilson July 13 Ex Parte at 13.

<sup>40</sup> As earlier noted, there may be circumstances where denial of signal boosters would be justified under the Act – such as where approving their use would case interference to existing networks. See fn. 36, *infra*.

<sup>41</sup> Notably, Wilson will be free to file a complaint and seek redress under sections 201 and 202 if it finds a carrier is acting unreasonably. And, the Commission already has Accelerated Docket procedures in place for use in appropriate circumstances. See 47 C.F.R. § 1.730.

interference will diminish. If a signal booster is operating on a carrier's network, and emitting signals that cause interference despite compliance with the safeguards, the carrier, as the licensee, must be afforded a reasonable opportunity to locate the interfering device and mitigate that interference. Locating the interference can only be done if the device is registered with and has been explicitly approved by the carrier. Therefore, including both technical safeguards as well as a carrier consent requirement is far from "unnecessary" and will further protect both consumers and licensees from interference. Further, the public interest demands such a requirement. Mobile units have become increasingly important for emergency purposes, including E911, and the Commission must ensure that signal boosters do not cause harmful interference to carrier networks which are providing those emergency services. Indeed, Section 302 of the Act makes paramount the duty of the Commission to prevent harmful interference to radio communications. Allowing signal boosters to operate without the licensee being able to know and stop harmful interference, especially to emergency communications, would dissuade the public interest.

Wilson claims that the two "safe harbors" of the Joint Proposal will ensure that signal boosters will be "manufactured, certified, marketed, and operated by consumers without harm to the wireless networks,"<sup>42</sup> and therefore, "[s]uch technical safeguards serve to obviate the need for carrier consent."<sup>43</sup> However, Wilson is in no position to provide an absolute guarantee that signal boosters that comply with these technical standards will never produce interference. Nor can Wilson guarantee that every user of a signal booster will operate it in accordance with the manufacturer's specifications. Under these circumstances, the licensee must be provided the opportunity to control whether or not the device may operate on its licensed spectrum. T-Mobile properly compares signal boosters to handset devices and recognizes that, in similar circumstances, the Commission has permitted a blanket authorization for handset devices but only to those "'units which the carrier has agreed to serve."<sup>44</sup> The need for this combined authorization and consent arose from the situation in which the handset device "causes harmful interference or is otherwise not operated in accordance with applicable rules and regulations."<sup>45</sup> Such a situation may also occur with signal boosters, despite the implementation of the proposed safe harbors.<sup>46</sup> As noted above, the record indicates that the signatories of the Joint Proposal are indeed split on this issue of requiring carrier consent. For example, while Wilson argues that proposed safe harbors and technical guidelines obviate the need for carrier consent,<sup>47</sup> T-Mobile recognizes the need for such a requirement due to interference "chaos" that can result from unregulated spectrum usage.<sup>48</sup> MetroPCS agrees with T-Mobile and other parties that support including a provision under the Joint Proposal that requires the consent of the licensee prior to consumers operating signal boosters on the licensed spectrum.

MetroPCS urges the Commission to recognize that signal booster devices that interact with a network must be consented to prior to operation with that network as such an interpretation falls squarely

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<sup>42</sup> Wilson July 13 Ex Parte, 1-2.

<sup>43</sup> Id. at 2.

<sup>44</sup> T-Mobile Comments at 4 (quoting Amendment of Sections of Part 21 (now Part 22) of the Commission's Rules, CC Docket No. 79-259, Report and Order, 77 FCC 2d 84, 86 (1980)).

<sup>45</sup> Id. at 5.

<sup>46</sup> Unless there is an absolute guarantee that interference will not occur from either the devices or customer error under the proposed safe harbors, carriers should still be afforded some level of insurance in the chance that interference results from signal booster operation.

<sup>47</sup> Wilson July 13 Ex Parte at 1.

<sup>48</sup> T-Mobile Comments at 4.

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into Commission precedent and policy. If carriers cannot identify an interfering device, they will be completely stripped of their rights to utilize their licensed spectrum free from harmful interference to wireless networks. Adoption of a carrier consent requirement along with the Joint Proposal's safeguards will ensure that carriers have the appropriate control over the devices that operate over their licensed spectrum, and thus, will be able to locate and mitigate any interference as a result of signal booster use. The additional safeguards proposed by AT&T pertaining to a manufacturer sponsored registration program and active FCC enforcement oversight also should be adopted.

Any questions regarding this notice should be directed to the undersigned.

Sincerely,

/s/ Carl W. Northrop

Carl W. Northrop  
of TELECOMMUNICATIONS LAW PROFESSIONALS PLLC

cc (via email):           John Leibovitz  
                                  Roger Noel  
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