

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Petition for Expedited Declaratory)	WT Docket No. 05-265
Ruling of T-Mobile USA, Inc.)	

**REPLY COMMENTS OF
NTCA–THE RURAL BROADBAND ASSOCIATION**

I. INTRODUCTION

NTCA–The Rural Broadband Association¹ (“NTCA”) hereby submits these brief reply comments in response to the Wireless Telecommunications Bureau’s (“Bureau”) Public Notice seeking comment on T-Mobile USA Inc.’s (“T-Mobile”) Petition for Expedited Declaratory Ruling regarding data roaming obligations.² In its Petition, T-Mobile requested that the Federal Communications Commission (“Commission”) issue a declaratory ruling that provides prospective guidance and predictable enforcement criteria for determining whether the terms of any given data roaming agreement or proposal meet the “commercially reasonable” standard adopted by the Commission. NTCA supported T-Mobile in its initial comments, agreeing that guidance is necessary to provide clarity in individualized negotiations and to help parties better evaluate the commercial reasonableness of offered terms and to reach agreements. In addition to

¹ NTCA represents nearly 900 rural rate-of-return regulated telecommunications providers. All of NTCA’s members are full service local exchange carriers and broadband providers, and many provide wireless, video, satellite, and/or long distance services as well.

² Wireless Telecommunications Bureau Seeks Comment on Petition for Expedited Declaratory Ruling Filed by T-Mobile USA, Inc. Regarding Data Roaming Obligations, WT Docket No. 05-265, DA 14-798 (June 10, 2014).

supporting the guidance requested by T-Mobile, NTCA reiterated its request that the Commission impose a roaming negotiations “shot clock” to avoid unnecessary delays in roaming negotiations that may be motivated by anticompetitive objectives. The record in this proceeding supports NTCA’s position.

It is worth noting that every commenter in this proceeding, save the largest two wireless providers, supports the T-Mobile petition. All remarked that the wholesale roaming market is not competitive and that the Commission’s April 2011 roaming order failed to result in rates that are “commercially reasonable.” Unsupported assertions that there is “overwhelming evidence of a well-functioning commercial marketplace”³ and that “the Commission’s rules are working as intended”⁴ are self-serving and wrong. The record in this proceeding very clearly demonstrates that the Commission’s 2011 order was ineffective and further guidance is necessary.

Although AT&T attempts to frame the discussion as a T-Mobile bid to “further its narrow business interests, not any legitimate industry-wide need for clarity,”⁵ NTCA respectfully disagrees, as do all but the one other large nationwide provider. While there are isolated incidents of successful roaming negotiations,⁶ consolidation in the wireless market has led to fewer potential roaming partners and increasingly unequal bargaining positions. Small and mid-size providers are complaining about the lack of responsiveness of the large providers, unnecessarily long delays, and “take it or leave it” one-sided offers. Commission action is

³ Opposition of AT&T, p. 5.

⁴ *Id.*, p. 7.

⁵ *Id.*, p. 6.

⁶ The initiation of this proceeding may have spurred large carrier action and helped some small carriers successfully negotiate wholesale roaming rates, but that success is transparent and fleeting. Any recent successful negotiation must be looked at with a skeptic’s eye and the realization that the two largest carriers have much to gain if the rest of the industry loses its bid to stop harmful and anticompetitive practices.

needed to address inequities in wholesale roaming negotiations and offer certainty to all providers.

II. CONCLUSION

For the above mentioned reasons, NTCA reiterates its support for T-Mobile's Petition for Expedited Declaratory Ruling, requesting that the Commission make clear that the commercial reasonableness of all data roaming agreements will be considered by looking at the following: (1) whether a wholesale roaming rate offered to a retail competitor greatly exceeds a "suitable measure" of retail price; (2) whether a wholesale roaming rate substantially exceeds roaming rates charged to foreign carriers when their customers roam in the U.S.; (3) whether a wholesale roaming rate substantially exceeds the price for wholesale data service that a seller charges to MVNO customers; and (4) how the proposed wholesale roaming rate compares to other competitively negotiated wholesale roaming rates. NTCA further requests that the Commission establish a "shot clock" for data roaming negotiations. These actions will help parties understand their rights and obligations, spur negotiations and provide the basis for the resolution of disputes.

Respectfully submitted,



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