



# PUBLIC NOTICE

**Federal Communications Commission**  
**445 12<sup>th</sup> St., S.W.**  
**Washington, D.C. 20554**

**News Media Information 202 / 418-0500**  
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DA 05-1389  
May 18, 2005

**WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON  
PETITION FOR DECLARATORY RULING FILED BY CTIA REGARDING  
WHETHER EARLY TERMINATION FEES ARE “RATES CHARGED” WITHIN  
47 U.S.C. SECTION 332(c)(3)(A)**

**WT DOCKET NO. 05-194**

**Comments Due: 30 Days After Publication in the Federal Register**  
**Reply Comments Due: 50 Days After Publication in the Federal Register**

On March 15, 2005, the Cellular Telecommunications & Internet Association (“CTIA”) filed a Petition for Expedited Declaratory Ruling (“CTIA Petition”),<sup>1</sup> seeking a declaratory ruling by the Commission that early termination fees in wireless carriers’ service contracts are “rates charged” for CMRS within the meaning of Section 332(c)(3)(A) of the Communications Act and Commission precedent.<sup>2</sup> CTIA also seeks a declaration from the Commission that any application of state law by a court or other tribunal to invalidate, modify, or condition the use or enforcement of early termination fees based, in whole or in part, upon an assessment of reasonableness, fairness, or cost-basis of the early termination fee, or to prohibit the use of early termination fees as unlawful liquidated damages or penalties, constitutes prohibited rate regulation preempted by Section 332(c)(3)(A).<sup>3</sup> The CTIA Petition raises important issues, and in this Public Notice, we seek comment on the Petition.<sup>4</sup>

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<sup>1</sup> See Petition of the Cellular Telecommunications & Internet Association for an Expedited Declaratory Ruling, WT Docket No. 194, filed March 15, 2005.

<sup>2</sup> See CTIA Petition at p. 7-22.

<sup>3</sup> See CTIA Petition at p. 22-28.

<sup>4</sup> We note that the Wireless Bureau is contemporaneously releasing a separate public notice seeking comment on earlier-filed petitions for declaratory ruling that raise preemption-related issues regarding early termination fees. See *Wireless Telecommunications Bureau Seeks Comment on Petition for Declaratory Ruling Filed by Suncom, and Opposition and Cross-Petition for Declaratory Ruling Filed by Debra Edwards, Seeking Determination of Whether State Law Claims Regarding Early Termination Fees Are*

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments in this proceeding on or before the 30<sup>th</sup> day after publication of this Public Notice in the Federal Register, and reply comments may be filed on or before the 50<sup>th</sup> day after publication of this Public Notice in the Federal Register. When filing comments, please reference WT Docket No. 05-194. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must send an original and four (4) copies of each filing. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12<sup>th</sup> Street, SW, Room TW-B204, Washington, DC 20554.

Filings can be sent by hand or messenger delivery, by electronic media, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings or electronic media for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial and electronic media sent by overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554.

This proceeding shall be treated as a "permit but disclose" proceeding in accordance with the Commission's *ex parte* rules, 47 C.F.R. § 1.1200. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. See 47 C.F.R. § 1.1206(b). Other rules pertaining to oral

and written *ex parte* presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission's rules, 47 C.F.R. § 1.1206(b).

The full text of the petition and copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12<sup>th</sup> Street, S.W., Room CY-A257, Washington, DC 20554, (202) 418-0270. This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12<sup>th</sup> Street, SW, Room CY-B402, Washington, DC 20554. Customers may contact BCPI, Inc. at their web site: [www.bcpweb.com](http://www.bcpweb.com) or by calling 1-800-378-3160.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format) send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (TTY).

**FOR FURTHER INFORMATION CONTACT:** Christina Clearwater, Spectrum & Competition Policy Division, Wireless Telecommunications Bureau, Federal Communications Commission, 202-418-1893.

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