

REDACTED – FOR PUBLIC INSPECTION

FEDERAL COMMUNICATIONS COMMISSION  
Enforcement Bureau  
Market Disputes Resolution Division  
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Washington, DC 20554

April 2, 2015

Email and First-Class Mail

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Re: *NTCH, Inc. v. Cellco Partnership d/b/a/Verizon Wireless*, EB Docket No. 14-212,  
File No. EB-13-MD-006

Dear Counsel:

On March 24, 2015, Commission staff held an initial status conference in the above-referenced matter pursuant to 47 C.F.R. § 1.733(a). The March 24<sup>th</sup> conference, which was attended by representatives of Complainant, NTCH, Inc. (“NTCH”), and Defendant, Cellco Partnership d/b/a/Verizon Wireless (“Verizon”) (collectively, “the parties”), was convened to discuss the parties’ respective views and positions on pending discovery requests.<sup>1</sup>

Based on the record before us, including the parties’ discovery requests, the objections, and the agreements reached by counsel, we rule as follows:

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<sup>1</sup> See NTCH’s First Set of Discovery Requests (filed July 2, 2014); Verizon’s Opposition to NTCH’s First Set of Discovery Requests (filed Aug. 4, 2014); NTCH’s Reply to Verizon’s Opposition to Discovery Requests (filed Aug. 22, 2014); Verizon’s First Set of Interrogatories (filed Aug. 4, 2014); NTCH’s Response to Verizon’s First Set of Interrogatories (filed Aug. 22, 2014); NTCH’s Second Set of Discovery Requests (filed Aug. 22, 2014); Verizon’s Opposition to NTCH’s Second Set of Discovery Requests (filed Aug. 29, 2014). See also Letter to Marlene H. Dortch, FCC, From Donald J. Evans, Counsel for NTCH, and Andre J. Lachance, Counsel for Verizon (filed Sept. 30, 2014) (attaching Joint Statement of NTCH and Verizon) (“Joint Statement Letter”).

**A. NTCH's First Set of Interrogatories**

1. Interrogatory Number 1, as modified by agreement of the parties, is granted to the extent set forth herein.<sup>2</sup> Specifically, Verizon will produce a chart reflecting the per unit rates paid to Verizon and by Verizon in each of its existing roaming agreements for all Service Categories (*i.e.*, voice, toll, SMS, and data services), a statement as to whether Verizon is a net payor or net receiver under each agreement, and volume figures reflecting total minutes of voice roaming under each agreement. The chart produced by Verizon will not identify Verizon's roaming partners by name.

With respect to LTE roaming rates associated with Verizon's LTE in Rural America ("LRA") agreements, Verizon will produce a chart showing: [REDACTED]

[REDACTED]

The LRA roaming rate chart produced by Verizon will not identify the LRA partner by name and will not include [REDACTED]

Verizon will not produce any roaming rates associated with [REDACTED] or its international agreements.<sup>7</sup>

<sup>2</sup> See Joint Statement Letter at 1; E-mail from Andre J. Lachance, Counsel for Verizon, to Lisa Boehley, FCC (April 1, 2015, 4:43 p.m. EDT) ("Joint E-mail on Discovery").

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

<sup>7</sup> See *id.* at 2 (noting the parties' disagreement regarding whether NTCH requested international roaming rate information in its discovery requests). Nothing in Complainant's discovery requests refers to international roaming

2. Interrogatory Number 2 is denied.
3. Interrogatory Number 3 is denied. As was discussed at the status conference, we deny the request contained in the first sentence of Interrogatory Number 3, which seeks Verizon's "rationale" for rate differences if the roaming rates Verizon has offered or provided to other carriers differ from those offered to NTCH.<sup>8</sup> If, after NTCH has reviewed Verizon's response to Interrogatory Number 1, it continues to hold the view that specific information requested in the first sentence of Interrogatory Number 3 is relevant to the material facts in dispute, NTCH may submit a more focused request for such information at that time.

The second sentence of Interrogatory Number 3, which seeks information regarding "the cost elements that entered into and justified the differing rates[,] " is denied.<sup>9</sup>

4. Interrogatory Number 4 is denied.
5. Interrogatory Number 5 is granted. As was discussed at the status conference, the parties agreed that this Interrogatory relates to retail and wholesale rates "provided" rather than "offered" for voice and data.
6. Interrogatory Numbers 6, 7, and 8 are denied.
7. Interrogatory Number 9 is denied. As was discussed at the status conference, if, after NTCH has reviewed Verizon's response to Interrogatory Number 1, it continues to hold the view that the information requested in Interrogatory Number 9 is relevant to the material facts in dispute, NTCH may submit a more focused request for such information at that time.

#### **B. NTCH's First Document Production Request**

NTCH's request for production of documents is denied.

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rates. Therefore, to the extent that counsel sought such information for the first time during a phone conference on March 31, 2015, after the deadlines for discovery had passed and after the status conference in this case, such oral request is denied.

<sup>8</sup> Interrogatory Number 3 states as follows: "If the roaming rates offered or provided to the other carriers differ from those offered to NTCH, provide the rationale for the different rate. If a difference in cost to VZW was a factor, identify and quantify the cost elements that entered into and justified the differing rates."

<sup>9</sup> *Id.*

**C. Verizon's First Set of Interrogatories**

1. Interrogatory Number 1, which is unopposed by NTCH, is granted as modified by agreement of the parties. As modified, NTCH will not identify the wireless carriers described in Interrogatory Number 1 by name.
2. Interrogatory Number 2, which is unopposed by NTCH, is granted.

**D. NTCH's Second Set of Interrogatories**

Interrogatory Number 1 is withdrawn by NTCH.

**E. NTCH's Second Document Production Request**

NTCH's request for production of documents is withdrawn by NTCH.

By **April 27, 2015**, the parties shall answer the pending interrogatories consistent with the rulings in this Letter Ruling. By **May 8, 2015**, the Complainant shall file and serve any supplemental discovery requests authorized by this Letter Ruling.

We issue this letter ruling under sections 4(i), 4(j), and 208 of the Act, 47 U.S.C. §§ 154(i), 154(j), 208, sections 1.3 and 1.720-1.736 of the Commission's rules, 47 C.F.R. §§ 1.3, 1.720-1.736, and the authority delegated in sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111, 0.311.

Sincerely,



Rosemary McEnery  
Deputy Chief, Market Disputes Resolution Division  
Enforcement Bureau

cc: Christopher Killion, Chief, Market Disputes Resolution Division  
Lisa Boehley