Curtis L. Groves
Associate General Counsel
Federal Regulatory and Legal Affairs

1320 N. Courthouse Road
Arlington, VA 22201
Phone 703.351.3084
Fax 703.351.3658
curtis.groves@verizon.com

November 16, 2015

Via ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Objection to Disclosure of Confidential or Highly Confidential Information to Neil Stevens, WC Docket No. 05-25 and RM-10593.

Dear Ms. Dortch:

In accordance with the Commission's *November 6 Public Notice*,[1] Verizon objects to the disclosure of its Confidential and Highly Confidential Information and Data to Mr. Neil Stevens under the *Data Collection Protective Order*[2] and to the disclosure of its Confidential and Highly Confidential Information and Data under the *Modified Protective Order*[3] and the *Second Protective Order* (collectively, the "Protective Orders")[4].

Mr. Stevens's request to access these data presents the same issues presented by the September 30, 2015, request filed by Mr. Bruce Kushnick. Verizon on October 15 objected to Mr. Kushnick's request. That objection is still pending. The issues are identical, and the Commission should decline to authorize both

---

[1] *Additional Parties Seeking Access To Data and Information Filed in Response to the Special Access Data Collection*, Public Notice, WC Docket No. 05-25, RM-10593; DA 15-1254 (Nov. 6, 2015) ("*November 6 Public Notice*").

[2] *See Special Access for Price Cap Local Exchange Carriers*, Order and Data Collection Protective Order, 29 FCC Rcd 11657 (2014) ("*Data Collection Protective Order*").

[3] *See Special Access for Price Cap Local Exchange Carriers*, Modified Protective Order, 25 FCC Rcd 15168 (2010) ("*Modified Protective Order*").

[4] *See Special Access for Price Cap Local Exchange Carriers*, Second Protective Order, 25 FCC Rcd 17725 (2010) ("*Second Protective Order*").

Mr. Stevens's and Mr. Kushnick's access to Confidential or Highly Confidential Information and Data in this proceeding.

Like Mr. Kushnick and his organization, New Networks Institute, neither Mr. Stevens nor his organization, Red State, are participants in this proceeding, and they have made no submissions in this proceeding other than their submission seeking access to Confidential and Highly Confidential Information and Data. Also, like Mr. Kushnick, Mr. Stevens does not represent or otherwise consult for any participant in this proceeding. Mr. Kushnick is the founder and executive director of New Networks Institute, which among other things operates a blog on which Mr. Kushnick writes about tech policy. Mr. Stevens is a tech policy writer and contributing editor for RedState, also a blog. Neither Mr. Kushnick nor Mr. Stevens has a legitimate reason to access the highly sensitive business materials Verizon has submitted to the Commission under the Protective Orders. Nor do they qualify to obtain those materials under the Protective Orders.

Data Collection Protective Order. The *Data Collection Protective Order* states that "[a]ccess to Highly Confidential Information (including Stamped Highly Confidential Documents) is limited to Outside Counsel of Record, Outside Consultants, and those employees of Outside Counsel and Outside Consultants described in paragraph 9."[5] Mr. Stevens is not "Outside Counsel" for any Participant in this proceeding. Nor is he an Outside Consultant.[6] The Order defines "Outside Consultant" as follows:

> "Outside Consultant" means a consultant or expert retained for the purpose of assisting Outside Counsel or a Participant in this proceeding, provided that such consultant or expert is not involved in Competitive Decision-Making. The term "Outside Consultant" includes any consultant or expert employed by a non-commercial Participant in this proceeding, provided that such consultant or expert is not involved in Competitive Decision-Making.[7]

Mr. Stevens does not satisfy the first sentence in this definition because he has not been "retained for the purpose of assisting Outside Counsel or a Participant in this proceeding." And he does not satisfy the second sentence in this definition because he is not employed by a non-commercial Participant in this proceeding. Mr. Stevens is affiliated with a blog, not a Participant in this proceeding.[8]

---

[5] *Id.*, ¶ 5.

[6] Paragraph 9 provides access for employees of Outside Counsel or Outside Consultants. Mr. Stevens is neither. *Id.* ¶ 9.

[7] *Id.* at Appendix A, Definitions.

[8] A "Participant" is "a person or entity that has filed, or has a good faith intention to file, *material* comments in this proceeding" (emphasis added).

Second Protective Order. The *Second Protective Order* also limits access to Highly Confidential Information to Outside Counsel and Outside Consultants, and adopts virtually the same definitions for Outside Counsel and Outside Consultants as the *Data Collection Protective Order*. Accordingly, Mr. Stevens is not eligible to obtain Confidential or Highly Confidential Information under the *Second Protective Order*.

Modified Protective Order. Under the *Modified Protective Order*, Confidential Information may be obtained only by Counsel, who in, turn may share those materials with outside consultants or experts, but only if those outside consultants or experts were "retained for the purpose of assisting Counsel."[9] Accordingly, Mr. Stevens is not entitled to directly access Confidential Documents. Counsel for Red State must request those materials and could share those materials with Mr. Stevens only if it could establish that Mr. Stevens was retained to assist that Counsel in this proceeding. None of these pre-requisites exists here. Mr. Stevens, therefore, is not entitled to access Confidential or Highly Confidential Information under the *Modified Protective Order*.

For these reasons, Verizon objects to the Acknowledgments of Confidentiality filed by Mr. Neil Stevens and request that the Commission decline to authorize Mr. Stevens's access to Confidential or Highly Confidential Information in this proceeding.

Very truly yours,

Copies: Neil Stevens (via email, neil@redstate.com)
SpecialAccess@fcc.gov

[9] *Modified Protective Order*, ¶ 10.