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FEDERAL COMMUNICATIONS COMMISSION
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June 15, 2001

VIA HAND DELIVERY
Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
445 12th Street, SW, Room TW-A325
Washington, D.C. 20554

Re: **PETROLEUM COMMUNICATIONS, INC.**
Ex Parte Presentation
Gulf of Mexico Cellular Rule Making Proceeding
WT Docket 97-112; CC Docket 90-6

Dear Ms. Salas:

On behalf of Petroleum Communications, Inc. ("PetroCom") we submit this response to the written ex parte presentation made by Verizon Wireless ("Verizon") on April 2, 2001.[1]

Verizon claims it has detailed "the difficulties cellular providers have providing service in land markets adjacent to the Gulf of Mexico."[2] Curiously, to support this claim, Verizon cites the summary of the record evidence PetroCom provided in its January 10, 2001 ex parte filing [hereinafter "Record Summary"].[3] PetroCom's Record Summary, however, does the opposite of supporting the existence of Verizon's purported "difficulties." As the first page of the Record Summary concludes, "there is, at best, scant evidence of any coverage problem, especially with respect to A-side systems and the Western side of the Gulf."

Verizon claims that the evidence submitted in GTE's August 4, 1997 comments includes Texas customer "complaints" about land-based calls setting up on the "Gulf providers' network," i.e., both Gulf providers.[4] Please review GTE's August 4, 1997 comments. There is no actual evidence of Texas customer complaints. PetroCom made this very point in the Record Summary.[5] Nor has there been any demonstration that poor portable coverage exists on the Texas beaches. On this claim, GTE's October 16, 1997 filing only presents a theoretical model with no supporting real world data. The Record Summary made that clear, too.[6] Verizon, acknowledging the Record Summary (even relying on it) without challenge, concedes these points.

[1] An original and four copies of this submission are being filed (two copies for each referenced docket). Verizon's April 2 presentation will be cited as "Verizon" followed by page number(s).
[2] Verizon, p. 1.
[3] *Id.*, at n. 1.
[4] Verizon, p. 2.
[5] Record Summary, p. 3. GTE's purported "trouble ticket" audit was conducted in 1997 only for Florida customers.
[6] *Id.*, p. 3.

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It is amazing what Verizon claims without any credible evidence. It states that the evidence "details customer complaints about poor coverage on the Texas beaches." During the four years of this proceeding the only evidence Verizon can muster are *two B-side customers letters* from 1995 and 1996 concerning a single location, South Padre Island. In one letter (dated June 11, 1996) the customer describes an inability "to use the phone in *remote* areas of the Island (*a few miles North after the road ends*)." (Emphasis added). The other letter (dated April 20, 1995) describes a weak signal (not a lack of signal) and suggests ways to resolve the problem. No explanation is offered as to the efficacy of either suggestion or whether the problem still exists. Please review GTE's November 17, 1997 comments to confirm this analysis, also reported in PetroCom's unchallenged Record Summary.[7] These five and six-year old documents are the *only* two letters submitted by any party in this proceeding to support the allegation of "poor coverage on Texas beaches." Such flimsy evidence is nowhere close to what is required for the radical overhaul of the rules Verizon seeks.[8]

Equally specious is Verizon's claim that 911 calls from land are being captured by the Gulf carrier and routed to the Coast Guard rather than to the PSAP.[9] Please review the May 30, 2000 reply comments which provides the vacuous basis for this claim: GTE's own engineer conducted a "test" by placing three calls from a single site very close to the market border. GTE failed to explain why it tested at only one location. Apparently recognizing the weak and biased nature of the "test" methodology, Verizon's April 2 letter does not even refer to the exhibit describing it. The Commission rejects flawed tests as evidence and should do so here.[10]

The anecdotal incidents and "tests" described by Verizon do not evidence *any* significant problem. If one were to "test" the border of any cellular market, it is likely that one could find a dead spot (where service is unavailable) or a spot where a call sets up on an adjacent system. If a particular case truly rises to any level of significance, it can be dealt with under the existing rules set up to encourage parties to work things out. That parties in a particular case become unreasonable is no reason to change the rules.

Verizon cites not a single incident of any 911 problem actually occurring. It resorts to simply making things up. On page 2 of its April 2 letter, it claims that there is "real world evidence of the subscriber capture problem" because a GTE customer received "over $700 in roaming charges in one month although the customer never left land," citing pages 9-10 of GTE's May 30, 2000 reply comments. Please review those comments. Nothing shows that "the customer never left land." No one knows where the customer was, a point made in PetroCom's March 1 submission that was also left unchallenged.

This rule making is not the place for prescribing or otherwise regulating Gulf carriers' rate structures directly or indirectly. Verizon and other land carriers have waited all this time to start complaining about roaming charges, while providing scant evidence of coverage and capture problems, to try to hoodwink the Commission into taking 10-miles of service area along the entire coastline from the Gulf carriers and giving it to land carriers for free. If there truly were any "difficulties" they would have been raised during the decade of Gulf carrier operations that preceded this rule making. Verizon, seeing the rule making as a chance to grab service area with nothing to lose, creates problems with assertions it tries passing off as "real world evidence."

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[7] Record Summary, p. 4.

[8] Claims lacking a foundation in credible evidence should be rejected. *See Aircell, Inc.*, 15 FCC Rcd 9622 at ¶ 22 (2000)(rejecting assertions not supported by evidence in the record).

[9] Verizon, p. 2.

[10] *Aircell, Inc.*, supra, at ¶ 21 (rejecting staged test that used skewed methodology).

Verizon asserts that, because it "does not operate any A-side licenses adjacent to the Gulf, it is not in a position to comment on the nature of PetroCom's dealings with land-based cellular providers."[11] Why not? The nature and results of PetroCom's dealings with land carriers have been clearly described throughout this proceeding as proof that the existing rules work. Verizon's "no comment" position concedes this proof. On the other hand, Verizon has no problem commenting on a proposal to take a 10-miles of service area away from PetroCom.

Consider for a moment Verizon's view that "the fact that the A-side carrier might be more reasonable is entirely irrelevant and should not form the basis for continuing the status quo."[12] Verizon is asking the Commission to overhaul the status quo based on the behavior of parties who cannot get along under the status quo, even though an identically-situated group of parties have been able to do so. It would seem imminently more sensible for the Commission to require the disputing parties to conform to the status quo rules that have been proven to work, rather than embrace a radical experiment of a "neutral zone" that favors one of the disputing parties while punishing the party that has been "more reasonable."

Given that the cellular community has operated successfully under the Commission's current extension rules for a decade, one might find it puzzling that any carrier would question the right of an adjacent carrier to have those rules followed. But that is what Verizon is doing here, expressing concern based on the conjecture that "after the Commission issues its order, one or both Gulf carriers will begin challenging other extensions into the Gulf."[13] Essentially, Verizon and its other Fortune 500 cohorts would like to be excused from following existing rules that have been proven to create seamless cellular coverage. They do not want these rules to work. They want the Commission to accept their assertions as "evidence" to show that the rules do not work. They do so motivated by the greed to swipe 10 miles of service area from the two small Gulf carriers.

Verizon's analysis of the real world data contained in the Dennis Study is flawed for the same reasons described in PetroCom's April 27, 2001 response to Alltel Corporation's submission.[14] Verizon (like Alltel) ignores what gave rise to the Dennis Study in the first place: the theoretical model submitted by Verizon's predecessor-in-interest, GTE Wireless, claiming to show that the Gulf carriers were capturing land carrier traffic off the Texas coastline near Galveston. In response, the Gulf carriers hired Tom Dennis to measure signal strengths in and around Galveston. The results of the Dennis Study completely disproved GTE's claim.

Verizon waits years to even comment on the Dennis Study, then simply nitpicks it.[15] Verizon never challenges the basic conclusion of Tom Dennis' drive test: land traffic is not being captured by the Gulf carriers.

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[11] Verizon, p. 2.
[12] *Id.*, p. 3.
[13] *Id.*
[14] *See* PetroCom's April 27, 2001 letter in this docket, at pp. 3-4.
[15] Verizon tries to make a big deal out of the Flagship Hotel test. However, the Flagship Hotel test was described in the "Background" section of the Dennis Study. It was not the core of the Dennis Study, but corroborated it. More importantly, Verizon provided no technical analysis to support its assertion that "[t]here simply is no way a cell site on land with the parameters purported to be tested would fail to be the best server on any part of the land." Verizon, p. 4.

Verizon winds up corroborating the very evidence it calls "completely unreliable."[16] Verizon observes that the Dennis Study "fails to reveal that GTE (now Verizon Wireless) has some signal extensions into the Gulf in the area tested."[17] Actually, the data obtained in the Dennis Study is consistent with that idea by showing that Verizon has the stronger along the entire Texas coastline where the measurements were taken. What is the extent of Verizon's signal extensions? What would be the extent of a pull-back if consent was required for the extensions under the current rules because an agreement was not reached? No one knows because the land carriers give no specifics.

Verizon leaps to the conclusion that the Dennis Study "proves" that "extensions into the Gulf are necessary to provide reliable service.[18] The study proves no such thing. The study does prove that Gulf carriers are not capturing land-based traffic. It does prove that land carriers are the best server along nearly 70 miles of drive-tested coastline. It does not follow, however, that land carriers' extensions into the Gulf are necessary, though they *may* be. If an extension is required for reliable service, carriers can do what they've always done – negotiate and reach an agreement.

As "real world evidence" of a problem, Verizon cites "customers in Alabama that no longer get any cellular service" as if B-side cellular service is the only voice service available in a market with two cellular carriers, one or more SMR carriers, and several PCS carriers.[19] Verizon produces no customers who no longer are able to get *any* cellular (or other voice) service. Let us hear from Cingular about its A-side service in the Mobile Bay area. So far, Cingular has cited no evidence of a problem there.

Verizon "continues to believe" the neutral zone proposal "is the best and fairest way to resolve the Gulf problems."[20] It claims Gulf carriers would not lose market territory or customers.[21] However, it never explains how Gulf carriers could serve their customers in a 10 mile "neutral" zone situated entirely over water.

In the last six years, Verizon's only "problems" in all of its markets with operations adjacent Gulf operations involve: (1) a remote spot on a barrier island; (2) a spot in Galveston; and (3) a customer who received high roaming charges one month. These "problems" hardly rise to the level of something that requires a radical overhaul of the Commission's rules.

As a final matter, PCS markets are defined by the state and county lines of MTAs and BTAs, thereby extending into the Gulf to the extent state and county lines do (unlike the Gulf of Mexico Service Area for which the boundary is the coastline). Verizon does not explain the claimed "expectations created by the Commission in licensing PCS along county lines" or why, even if such expectations are legitimate, they should prevent the Commission from separately licensing PCS in the Gulf at the appropriate time. Further, the record in this proceeding does not support Verizon's claims about "problems that have long-plagued the cellular industry at the Gulf of Mexico coastline."[22] As with cellular licensing rules, Verizon's unsupported claims should be given no weight regarding PCS licensing rules in the Gulf.

[16] Verizon, p. 4 (citing its agreement with Alltel's February 28, 2001 ex parte submission).
[17] *Id.*
[18] *Id.* at n. 12.
[19] *Id.* Indeed, Alltel submitted evidence showing B-side customers in Mobile switching to A-side service. See PetroCom's April 27, 2001 submission at p. 11, n. 49.
[20] Verizon, p. 4.
[21] *Id.*
[22] Verizon, pp. 5-6.

Sincerely,

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