FIRST Cellular
of southern illinois

TERRY ADDINGTON
President & CEO

417 South 42nd Street
Mt. Vernon, Illinois 62864
(618) 244-8525
(800) 423-5560
taddington@firstcellular.com

December 14, 2004

Marlene H. Dortch
Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

Re: **EX PARTE**
T-Mobile USA, Inc.-Western Wireless Corp.-Nextel Communications-Nextel Partners Petition for Declaratory Ruling (CC Docket No. 01-92)

Dear Ms. Dortch:

Southern Illinois RSA Partnership d/b/a First Cellular of Southern Illinois ("First Cellular") submits this *ex parte* letter to stress the importance of the issues raised in the petition for declaratory ruling, filed jointly by T-Mobile, Western Wireless Corporation, Nextel Communications, and Nextel Partners ("Joint Petition"), seeking clarification that wireless termination tariffs unilaterally filed by local exchange carriers ("LECs") are unlawful under the Communications Act of 1934, as amended ("Act"). First Cellular is particularly concerned about the impact of unilateral wireless termination tariffs on its ability to compete in rural areas. First Cellular's situation, described below, is typical of smaller wireless carriers serving predominantly rural areas.

First Cellular serves twenty-four primarily rural counties in Southern Illinois. For nearly 14 years, beginning when we first commenced operations in January 1991, First Cellular has exchanged traffic with many rural LECs through "indirect" interconnection arrangements. Indirect interconnection arrangements route traffic through a transit carrier, in our case, a Southwestern Bell/Ameritech tandem switch that connects First Cellular's switch to the rural LECs. Indirect interconnection is the most efficient means of interconnection when traffic volume does not justify the expense of direct connections and formal interconnection agreements. LECs have not disputed the fairness of these arrangements until recently, when some LECs unilaterally imposed non-reciprocal termination rates and terms upon First Cellular through tariff filings.

Safety-
Your most
important call

As a locally owned and operated wireless carrier providing service in rural areas of southern Illinois, First Cellular and its customers would be severely impacted if the Commission upholds LEC-filed tariffs. These unilateral tariffs impose onerous rates and terms by:

- assessing rates ranging from $0.03 to $0.06 per minute, which are substantially higher than reciprocal compensation rates or any other measure of efficient costs;
- allowing the LEC to block calls or terminate service if First Cellular fails to comply with the terms of the tariff;
- requiring compensation for termination of traffic only on the LEC network, not on First Cellular's network;
- imposing a non-reciprocal obligation on First Cellular to provide detailed billing and call records, and permitting the LEC to conduct on-site verification of the underlying data; and
- imposing a non-reciprocal obligation on First Cellular to pay collection and attorney's fees for non-compliance with the terms of the tariff.

At least one Illinois LEC has issued invoices to First Cellular under its tariff for termination charges totaling approximately $14,000 per month. The estimated cost for just the 8 rural LECS included in this tariff will be between $200,000 and $300,000 in 2005. If the other 47 Illinois rural LECs also file a tariff, that cost will rise significantly. Although such costs may not seem significant in isolation, when one considers that there are 55 rural incumbent LECs in Illinois – many of which provide service in First Cellular's licensed service area – these costs can be significant.[1] This is particularly true for smaller CMRS providers, such as First Cellular, that are less able to absorb such costs. If First Cellular refuses to pay the exorbitant termination rates or otherwise comply with the unreasonable requirements under the tariff, the LEC is permitted under tariff to discontinue service to First Cellular at any time.

Faced with the prospect of service disruption and exorbitant termination costs that exceed its service revenues, First Cellular was compelled to file a complaint in federal district court seeking declaratory and injunctive relief from the

---

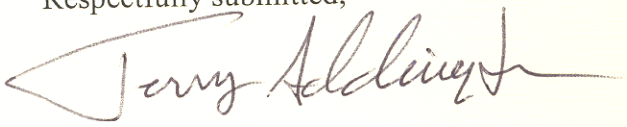
[1] *See* Universal Service Administrative Company, Federal Universal Service Mechanisms Fund Size Projections for the First Quarter 2005, Appendix HC-1 (filed Nov. 2, 2004), available at http://www.universalservice.org/overview/filings/.

implementation of unilateral wireless termination tariffs.[2] These tariffs are inimical to the interconnection procedures established by Congress and implemented by the Commission, which provide for "private negotiation and arbitration aimed at creating interconnection agreements that are then subject to state commission approval, FCC oversight, and federal judicial review."[3] In an attempt to bypass the federal process, certain LECs unilaterally have filed wireless termination tariffs, and have threatened to discontinue service if their tariff demands are not met. None of these LECs has ever requested to engage in interconnection negotiations with First Cellular.

Allowing LECs to impose wireless termination tariffs would thwart Congressional intent, severely impact First Cellular's business, and ultimately prevent consumers from enjoying the full benefits of competition, particularly intermodal competition. It also would undermine the prospects of any meaningful federal reform of the existing inter-carrier compensation system and frustrate the pro-competitive goals of the Act. Accordingly, First Cellular urges the Commission to grant the Joint Petition expeditiously.

Pursuant to Section 1.1206(b) of the Commission's rules, this letter is being filed electronically.

Respectfully submitted,



Terry Addington
President and Chief Executive Officer

cc: Jennifer Manner
Barry Ohlson
Sheryl Wilkerson
Paul Margie
Sam Feder
Jeffrey Carlisle
Tamara Preiss
Jeffrey Dygert
Jessica Rosenworcel
Matt Brill
Scott Bergmann
Daniel Gonzalez
John Muleta
Jane Jackson
Steve Morris
Rob Tanner
David Furth
Martin Perry
William Kunze
Scott Delacourt
Victoria Schlesinger
John Stanley

---

[2] *See* First Cellular Complaint for Declaratory and Injunctive Relief, *VoiceStream PCS I, LLC d/lb/a T-Mobile v. Hurley*, No. 04 C 5903 (N.D. Ill. Filed Sept. 29, 2004).

[3] *Verizon North, Inc. v. Strand,* 309 F.3d 935, 941 (6th Cir. 2002), *cert. denied*, 538 U.S. 946 (2003).