

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	WT Docket No. 05-149
Application of Cellco Partnership d/b/a)	
Verizon Wireless)	Report No. AUC-58
)	
)	File No. 0002069007

To: The Wireless Telecommunications Bureau

OPPOSITION

Cellco Partnership d/b/a Verizon Wireless (“Verizon Wireless”) hereby opposes the “Ex Parte Motion and Petition to Deny All Long Form Applications” and “Affidavit in Support of the Ex Parte Motion and Petition to Deny” (jointly the “Petition”) regarding the above-captioned applications submitted to the Commission by Mr. Ameer Flippin.¹ As discussed below, the Petition should be summarily dismissed because the Petition does not appear to have been properly filed with the Commission, Mr. Flippin lacks standing to petition to deny the Verizon Wireless application, and his claims do not relate to Verizon Wireless’ application.

Petitions to deny applications must be filed either electronically or by paper delivered to 236 Massachusetts Avenue, N.E. Suite 110, Washington, D.C. 20002.² Verizon Wireless can

¹ It appears that Mr. Flippin has tried to file his Petition on at least two occasions. Verizon Wireless is aware of two documents from Mr. Flippin styled “Ex Parte Motion and Petition to Deny Against All Long-Form Applications.” The first is dated February 19, 2005, but has no signature. The second is identical except that it contains a signature and is dated March 10, 2005. The March 10 submission appears to have been accompanied by an “Affidavit in Support,” which is also dated March 10, 2005 and also signed. These documents should all be summarily dismissed for the reasons set forth herein.

² See, e.g., “Wireless Telecommunications Bureau Announces that Applications for Broadband Person Communications Services (PCS) Are Accepted for Filing,” Public Notice, DA 05-771 (rel. March 25, 2005).

find no evidence that the Petition was filed either electronically through the Commission's Electronic Comment Filing System or the Universal Licensing System. Similarly, Verizon Wireless can find no date-stamp copy indicating the Petition was filed with the Secretary. It appears instead that the Petition was merely transmitted to the Commission by facsimile. The Commission has held that a facsimile transmission alone is not sufficient to constitute filing.³ Thus, absent any evidence of a legally sufficient filing, the Petition should be returned to Mr. Flippin without action.⁴

In any event, Mr. Flippin lacks standing to petition to deny Verizon Wireless's application. The Commission and the D.C. Circuit have established stringent standing requirements in the context of spectrum auctions. Specifically, "an entity that was not qualified to bid in particular markets in an auction has no standing to file a petition to deny the winning bidders' applications in those markets."⁵ The FCC did not find that Mr. Flippin was qualified to bid in any of the markets in Auction No. 58.

³ 47 C.F.R. § 1.7 ("documents are considered to be filed with the Commission upon their receipt at the location designated by the Commission"); *see also* *Goosetown Enterprises, Inc.*, 16 FCC Rcd 12792 (2001).

⁴ 47 C.F.R. § 0.401 ("The Commission maintains several offices and receipt locations. Applications and other filings not submitted in accordance with the addresses or locations . . . will be returned without processing"). The fact that Mr. Flippin is proceeding *pro se* does not excuse his failure to comply with the Commission's rules. The Commission requires that persons "having business with the Commission should familiarize themselves with those portions of its rules and regulations pertinent to such business." 47 C.F.R. § 0.406; *see also*, *Family Television, Inc., San Antonio, Texas*, 85 FCC 2d 986 ¶ 5 (1981) ("While the Commission recognizes applicant was inexperienced in the communications field, we will not permit Family to use its inexperience as a shield to avoid the consequences of its inaction").

⁵ *See Alaska Native Wireless, L.L.C.*, 18 FCC Rcd 11640, 11644-645 (2003) citing *High Plains Wireless, L.P. v. FCC*, 276 F.3d 599, 605 (D.C. Cir. 2001); *Nextel License Acquisition Corp.*, 13 FCC Rcd 11983, 11988 (WTB 1998); *Western Communications Services, Inc.*, 17 FCC Rcd 24636, 24636-37 (CWD 2002).

On October 15, 2004, the Bureau extended the deadline for filing short-form applications and making upfront payments until November 20, 2004, and December 29, 2004 respectively.⁶ Mr. Flippin did not meet either announced deadline. Mr. Flippin also alleges that he filed a short form on paper on January 4, 2005.⁷ There is no evidence, however, that Mr. Flippin tried to submit an upfront payment. Instead, Mr. Flippin submitted a request that the Commission extend these deadlines and postpone Auction No. 58 by 180 days.⁸ The Commission denied Mr. Flippin's request to extend the short form and upfront payment deadlines by letter order dated January 25, 2005.⁹ Also on January 25, 2005, the D.C. Circuit dismissed Mr. Flippin's request to stay or suspend Auction No. 58. In short, Mr. Flippin's short form had no legal significance and Mr. Flippin was never qualified to bid in Auction No. 58. Consequently, Mr. Flippin lacks standing to petition to deny the Verizon Wireless licenses.

Finally, Mr. Flippin's Petition is improper because it does not attempt to demonstrate why Verizon Wireless' application should be denied. The Petition purports to challenge the "long-form applications of opposing entities which placed bids less than or equal in value of bids placed by Ameer Flippin, an individual."¹⁰ The Petition also includes a "Listing of Entities to Deny Against Long Form" which is nothing more than a list of winning bidders in Auction No. 58. The Petition, however, fails to make any specific allegations of fact that would show that

⁶ "Broadband PCS Spectrum Auction Start Date Rescheduled for January 26, 2005," 19 FCC Rcd 19945 (WTB 2004).

⁷ See Affidavit in Support of the Ex Parte Motion and Petition to Deny at 3.

⁸ *Mr. Ameer Flippin*, 20 FCC Rcd 1599 (2005).

⁹ *Id.*

¹⁰ Petition at 1.

granting Verizon Wireless' application would be prima facie inconsistent with the public interest. Such a showing is a prerequisite to the Commission's consideration of a petition to deny.¹¹

For the foregoing reasons, the Commission should summarily dismiss the Petition and promptly grant the above-captioned application.

Respectfully submitted,

**CELLCO PARTNERSHIP D/B/A
VERIZON WIRELESS**

By: John T. Scott, III
John T. Scott, III, Vice President
Deputy General Counsel, Regulatory Law

1300 I Street, N.W., Suite 400 West
Washington, D.C. 20005

Date: April 11, 2005

¹¹ See 47 U.S.C. 309(d); 47 C.F.R. §§ 1.2108(c), 24.830(a)(3).

CERTIFICATE OF SERVICE

I, Sarah E. Weisman, do hereby certify that, on this 11th day of April, 2005, I caused the foregoing "Opposition" of Cellco Partnership LP to be: (1) filed electronically with the Federal Communications Commission; and (2) served via email or first-class United States Mail, postage prepaid, on the following:

Mr. Ameer Flippin (via U.S. Mail) 2053 Wilson Road Memphis, TN 38116	Best Copy and Printing, Inc. (via email) fcc@bcpiweb.com
Ms. Erin McGrath (via email) Mobility Division Wireless Telecommunications Bureau Federal Communications Bureau 445 12 th Street, S.W. Washington, D.C. 20554 erin.mcgrath@fcc.gov	Mr. Michael Connelly (via email) Mobility Division Wireless Telecommunications Bureau Federal Communications Bureau 445 12 th Street, S.W. Washington, D.C. 20554 michael.connelly@fcc.gov

