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November 4, 2005

**VIA ELECTRONIC FILING**

Marlene H. Dortch, Secretary  
Office of Managing Director  
Federal Communications Commission  
445 12th Street, S.W.  
Room TW-B204  
Washington, DC 20554

Attn: Wireline Competition Bureau

**Re: USCOC of Virginia RSA #3, Inc., USCOC of Virginia RSA #2, Inc., Virginia RSA #4, Inc., Virginia RSA #7, Inc. Ohio State Cellular Telephone Company, Inc. and Charlottesville Cellular Partnership  
Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia  
CC Docket No. 96-45**

Dear Madam Secretary:

USCOC of Virginia RSA #3, Inc., USCOC of Virginia RSA #2, Inc., Virginia RSA #4, Inc., Virginia RSA #7, Inc. Ohio State Cellular Telephone Company, Inc. and Charlottesville Cellular Partnership (collectively, "U.S. Cellular") hereby amends its above-referenced petition for ETC status in the Commonwealth of Virginia<sup>1</sup> to provide additional information requested by the Commission, through its Wireline Competition Bureau ("WCB") and consistent with the Commission's *Virginia*

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<sup>1</sup> USCOC of Virginia RSA #3, Inc., USCOC of Virginia RSA #2, Inc., Virginia RSA #4, Inc., Virginia RSA #7, Inc. Ohio State Cellular Telephone Company, Inc. and Charlottesville Cellular Partnership, Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia, CC Docket No. 96-45 (filed April 13, 2004) ("Petition"). *See Parties are Invited to Comment on Petitions for Eligible Telecommunications Carrier Designations*, Public Notice, DA 04-1445 (rel. May 21, 2004, 2004) ("Public Notice").

*Cellular* and *Highland Cellular* decisions.<sup>2</sup> Specifically, while U.S. Cellular's Petition stated that the Company would undertake the same commitments that were made by Virginia Cellular and adopted as conditions of its designation by the FCC, U.S. Cellular now provides additional information regarding its specific commitments. U.S. Cellular also provides additional analysis regarding impacts on the fund. Finally, U.S. Cellular requests clarification that no further redefinition with respect to the service area of United Intermountain Telephone Company is necessary.

As a preliminary matter, U.S. Cellular fully commits to comply with all of the annual reporting requirements adopted in the *Report and Order* adopted earlier this year, including the filing of a five-year network improvement plan, network outage reports, and other newly required certifications and reports adopted therein. U.S. Cellular understands that those new reporting conditions, upon OMB approval, will require all ETCs to file their first reports on October 1, 2006. U.S. Cellular will comply with this and all other applicable rules and conditions adopted by the Commission.

**A. Commitment to Undertake *Virginia Cellular* Commitments.**

U.S. Cellular is committed to undertaking the same compliance and reporting obligations Virginia Cellular agreed to undertake as a condition of its designation in 2004. In its Petition, U.S. Cellular set forth its commitment to provide service upon reasonable request, to report the number of consumer complaints per 1,000 handsets, and to comply with the Cellular Telecommunications Industry Association Consumer Code for Wireless Service. U.S. Cellular provides additional detail with respect to its Virginia Cellular commitments, as follows:

**1. Service Provisioning Commitment.**

To elaborate on its commitment to provide service to consumers upon reasonable request,<sup>3</sup> U.S. Cellular is pleased to make the following commitment to provision service to requesting customers:

In response to such requests for service at a residence or business, U.S. Cellular will take the following steps:

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<sup>2</sup> *Virginia Cellular, LLC*, 19 FCC Rcd 1563 (2004), *recon. pending* (“*Virginia Cellular*”); *Highland Cellular, Inc.*, 19 FCC Rcd 6422 (2004), *recon. pending* (“*Highland Cellular*”).

<sup>3</sup> *See* Petition at p. 3.

1. If a request comes from a customer within its existing network, U.S. Cellular will provide service immediately using its standard customer equipment.

2. If a request comes from a customer residing in any area where U.S. Cellular does not provide service, U.S. Cellular will take a series of steps to provide service.

\* First, it will determine whether the customer's equipment can be modified or replaced to provide acceptable service.

\* Second, it will determine whether a roof-mounted antenna or other network equipment can be deployed at the premises to provide service.

\* Third, it will determine whether adjustments at the nearest cell site can be made to provide service.

\* Fourth, it will determine whether there are any other adjustments to network or customer facilities which can be made to provide service.

\* Fifth, it will explore the possibility of offering the resold service of carriers that have facilities available to that location.

\* Sixth, U.S. Cellular will determine whether an additional cell site, a cell-extender, or repeater can be employed or can be constructed to provide service, and evaluate the costs and benefits of using scarce high-cost support to serve the number of customers requesting service. If there is no possibility of providing service short of these measures, U.S. Cellular will notify the customer and provide the Commission with an annual report of how many requests for service could not be filled. The Commission will retain authority to resolve any customer complaints that U.S. Cellular has refused to respond to a reasonable request for service.

U.S. Cellular believes these service provisioning commitments will ensure that the company is responsive to consumers' needs while acting as a proper steward of available high-cost support funds.

## **2. Construction Plans**

In *Virginia Cellular*, the petitioner provided plans for using high-cost funds to improve its facilities and reach out to areas that it does not currently serve.<sup>4</sup>

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<sup>4</sup> See *Virginia Cellular, supra*, 19 FCC Rcd at 1571, para. 16. Specifically, Virginia Cellular committed to use universal service support to construct 11 new cell sites in sparsely populated areas within its ETC service area. The FCC noted that the carrier's build-out plan "may evolve over time" as a result of shifts in consumer demand. *Id.*

Consistent with *Virginia Cellular*, U.S. Cellular committed in its Petition to “construct[] additional cell sites in high-cost areas to improve the quality of its radio frequency (“RF”) signal” so that consumers will have “a greater choice among service providers and will receive more reliable service.”<sup>5</sup> U.S. Cellular now provides additional details regarding the network improvements referred to in the Petition. Specifically, within the first 18 months of receiving high-cost support, U.S. Cellular commits to construct cell towers or collocate antennas to bring new or improved service to the following 19 communities: Fork Union, Arvonias, Cumberland, Briery, Gladys, Volens, Millstone, Cluster Springs, Spencer, Laurel Fork, Floyd, Iron Gate, Longdale, Dunlap Beach, Groseclose, Furnace Hill, Saltville, Buffalo, and Selma. As with the network improvements proposed by Virginia Cellular, the specific parameters of this plan could change as a result of fluctuating support levels, difficulty obtaining zoning and other necessary approvals, or shifts in consumer demand. The proposed sites are projected to cost an estimated \$250,000 to \$400,000 each. This constitutes U.S. Cellular’s firm commitment to use high-cost support to undertake facilities construction and upgrades that would not occur but for the availability of such support. U.S. Cellular additionally commits to report on its progress in annual filings to verify that support was properly spent and to explain any changes in construction plans,<sup>6</sup> also consistent with Virginia Cellular’s commitments.<sup>7</sup>

As noted above, U.S. Cellular fully commits to develop a five-year network improvement plan and file it with the Commission on or before October 1, 2006, the date on which all ETCs are required to file their first report under the newly adopted rules.

**B. Impact on Size of Fund.**

At the time it filed its Petition, U.S. Cellular had not yet begun filing line counts with the Universal Service Administrative Company (“USAC”). Projections for support that will be received by individual ETCs and prospective ETCs are based on line counts filed under the rules applicable to high-cost loop support, interstate access support, interstate common line support, and other categories of support. Because it had no line counts in place for USAC to generate projections, U.S. Cellular could not estimate the amount of support it would receive upon designation in Virginia. U.S. Cellular has now filed line counts for several reporting

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<sup>5</sup> Petition at p. 12.

<sup>6</sup> *See id.*

<sup>7</sup> *See Virginia Cellular, supra*, 19 FCC Rcd at 1584, para. 46.

periods and, based on USAC's corresponding projections, can provide an analysis of the likely effect of its designation on the high-cost fund.

In last year's *Nextel Partners* order, the FCC addressed the question of whether designating NPCR, Inc. d/b/a Nextel Partners ("Nextel") as an ETC in Alabama, Florida, Georgia, New York, Pennsylvania, Tennessee, and Virginia would cause undue strain on the federal high-cost Fund.<sup>8</sup> In making that determination, the FCC used the unrealistic scenario of Nextel capturing each and every ILEC subscriber in Alabama – the state in which the affected ILECs receive the largest amount of support – which would result in Nextel receiving support equivalent to 1.88 percent of the total high-cost Fund.<sup>9</sup> Based on that analysis, the FCC concluded that Nextel's designation in all seven states would not "dramatically burden" the federal high-cost Fund.<sup>10</sup>

Here as well, U.S. Cellular's designation will not burden the USF. USAC projects that the funds that U.S. Cellular will receive annually if it is designated as an ETC in Virginia will be approximately \$5.2 million, less than 0.13 percent of all high-cost support. Even in the implausible event U.S. Cellular captures all of the ILEC subscribers in its Virginia service area, U.S. Cellular estimates its total support would amount to less than 1.5 percent of the Fund,<sup>11</sup> a significantly lower percentage than the 1.88 figure corresponding to just one of the seven states approved in the *Nextel Partners* order. By any measure, therefore, a grant of the instant Petition will not unduly burden the Fund.

### C. Clarification Regarding Redefinition.

In its Petition, U.S. Cellular requested redefinition of several rural ILEC service areas so that each of their wire centers constitutes a separate service area.<sup>12</sup> Consistent with Virginia Cellular and other precedent, U.S. Cellular requested conditional designation in those ILECs' areas, to become effective upon Virginia State Corporation Commission ("SCC") concurrence with the proposed redefinition.

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<sup>8</sup> See *NPCR, Inc. d/b/a Nextel Partners*, 19 FCC Rcd 16530, 16540 (2004) ("*Nextel Partners*").

<sup>9</sup> See *id.* at n.69.

<sup>10</sup> *Id.*

<sup>11</sup> This estimate is based on the total amount of support the affected ILECs receive. However, the actual amount would be much lower because this estimate does not exclude the portions of ILEC study areas not covered by U.S. Cellular's Petition.

<sup>12</sup> See Petition at pp. 18-21.

One of the ILECs for which U.S. Cellular requested redefinition, United Intermountain Telephone Company (“United”), has since had its service area redefined in the manner requested in U.S. Cellular’s Petition. Specifically, the SCC issued an order on August 2, 2004, concurring with the FCC’s proposal in the *Highland Cellular* order to redefine United’s service area so that each of its wire centers constitutes a separate service area.<sup>13</sup> Because the FCC specified that the purpose of the requested redefinition was “to determine the portions of the rural service area in which to designate Highland Cellular and future competitive carriers seeking ETC designation in the same rural service area,”<sup>14</sup> the now-complete redefinition of United’s service area obviates the need for further redefinition in order for U.S. Cellular to be designated in areas served by United.

We note that several competitive ETCs have reported problems obtaining high-cost support in rural ILEC service areas that have been redefined along wire-center boundaries in connection with another carrier’s designation, even though the FCC has made clear that redefinition applies to all wire centers throughout an ILEC’s study area.<sup>15</sup> We therefore request that the Commission clarify that U.S. Cellular’s designation in United’s service area is effective immediately, without the need for further redefinition, so that U.S. Cellular can receive high-cost support for customers it serves in those areas without delay.

We trust that you will find this information to be useful. Should you have any questions or require any additional information, please contact undersigned counsel directly.

Respectfully submitted,

USCOC OF VIRGINIA RSA #3, INC., USCOC OF  
VIRGINIA RSA #2, INC., VIRGINIA RSA #4, INC.,  
VIRGINIA RSA #7, INC. OHIO STATE CELLULAR  
TELEPHONE COMPANY, INC. AND  
CHARLOTTESVILLE CELLULAR  
PARTNERSHIP



<sup>13</sup> In re: Petition of the Federal . . . . . mission for Agreement in Redefining the Service Area of United Telephone Company – Southeast Virginia Pursuant to 47 C.F.R. § 54.207(d), Case No. 2004-00056.

<sup>14</sup> *Highland Cellular, supra*, 19 FCC Rcd at 6439.

<sup>15</sup> *See id.* (“Consistent with prior rural service area redefinitions, we redefine each wire center in the United Telephone study area as a separate service area.”)

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Its Attorneys

cc: (see attached service list)

## CERTIFICATE OF SERVICE

I, Donna L. Brown, a secretary in the law office of Lukas, Nace, Gutierrez & Sachs, hereby certify that I have, on this 4<sup>th</sup> day of November, 2005, placed in the United States mail, first-class postage pre-paid, a copy of the foregoing Amendment filed today to the following:

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