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July 25, 2008

The Honorable Kevin J. Martin
Chairman
Federal Communications Commission
445 - 12th Street, SW
Washington, D.C. 20554

Dear Chairman Martin:

I am writing to express my continued concerns with Verizon Wireless' proposed acquisition of Rural Cellular Corporation (RCC) (WT Docket No. 07-208; hereinafter referred to as the "Unicel takeover"). The escalating pace at which smaller wireless carriers are being consumed by the dominant companies poses a real danger to Americans, who will ultimately have fewer choices and be paying higher prices for wireless service. The likelihood that we will find ourselves in such a situation is increased by a policy of considering mergers and takeovers in the wireless industry serially.

As you are aware, before the Federal Communications Commission (FCC) has acted on the Unicel takeover, Verizon Wireless has also proposed the acquisition of Alltel Communications (WTB Docket No. 08-95; hereinafter referred to as the "Alltel takeover"). I would request that the FCC withhold approval of the Unicel takeover for now and review the Unicel and Alltel takeovers together so that the true impact of these mergers can be determined.

In addition, if the FCC decides to move forward with approval of the Unicel takeover, I ask that the FCC make its approval conditional on both Verizon Wireless and AT&T committing to meet the wireless needs of all potential customers in the areas where they hold licenses. Specifically, Verizon Wireless and AT&T should be required to make specific, enforceable commitments to provide service to the large numbers of rural residents in Vermont and in other states who currently have unreliable or no service at all. As you may know, to deal with the wireless and broadband coverage challenges, the State of Vermont has created the Vermont Telecommunications Authority (VTA) and has provided it with considerable bonding authority. As discussed below, the creation of the VTA provides the FCC with a unique opportunity to craft conditions that further the public interest and that could serve as a model for meeting the wireless needs of rural Americans in the future.¹

¹ Over the last few months, my office, various State of Vermont officials, and Verizon Wireless have been engaged in detailed discussions about the need to expand wireless coverage in Vermont. Wireless service in Vermont, particularly in rural areas, is often unreliable and sometimes non-existent. It was my hope that such discussions would result in a heightened commitment on the part of Verizon Wireless and AT&T to provide service to all of Vermont's communities. Those discussions continued until just a few days ago. At the request of one of the other parties I agreed, as a gesture of good faith, to withhold this filing until these discussions were concluded one way or

I. The FCC should conduct a prospective analysis of the impact of consolidation in the wireless industry and should review the Unice! and Alltel takeovers together.

Verizon Wireless' proposed acquisition of Rural Cellular is just the latest in a long string of mergers and takeovers in the wireless industry, which is decreasing competition.² Reviewing applications for mergers and takeovers serially fails to place these various transactions in their proper market context. Only by conducting an industry-wide prospective analysis of consolidation within the wireless telecommunications industry – which has changed significantly in the last few years – can the FCC evaluate the true impact of any single transaction on American consumers and whether that transaction is in the public interest.

As you know, Verizon Wireless' proposed acquisition of RCC would allow them to acquire business in 13 states covering hundreds of thousands of customers.

The proposed acquisition of Alltel, the fifth largest telecommunications company in the U.S., with 13 million customers and a network in 34 states, by Verizon Wireless, the second largest wireless provider with 67.2 million wireless customers in all 50 states, would greatly increase market concentration. If this deal were to be approved, Verizon Wireless and AT&T would control approximately 60 percent of the U.S. cellular market. Such a move would bring us one step closer to a situation where a small handful of companies control the cellular market, which is now also a major provider of data services in addition to voice.³ I believe it is imperative that the Commission determine what level of such industry-wide consolidation is truly in the public interest.

Even if the FCC decides not to conduct such a prospective analysis of what effect various levels of potential consolidation may have, the Unice! and Alltel takeovers should be considered together. Verizon Wireless will no doubt argue that the two transactions are distinct. Conversely, with the proximity in time of these two proposed transactions and the likelihood that the impact of the combination of these two takeovers will be disproportionately felt by rural wireless users, these two transactions should be considered together so that the FCC can best ensure that the public interest is served.

II. Verizon Wireless and AT&T should make enforceable commitments to provide reliable service to rural America.

another. Because of the FCC's announcement that it would consider WT Docket No. 07-208 on August 1, 2008, and with discussions not having yet yielded an understanding, I am submitting these comments now.

² Some have suggested that expansion of available spectrum might expand the number of companies competing in this industry. The outcome of the recent 700MHz auction, however, demonstrates that the dominant companies are likely to gain significant control over any new spectrum. See, e.g., "Verizon, AT&T Big Winners in 700 MHz Auction." David Gardner, *InformationWeek*, March 20, 2008.

³ Given the planned convergence of technology between Verizon Wireless and AT&T, and announced plans to deploy that LTE technology on the 700 MHz spectrum, it is not a terribly long leap to suspect that the FCC may at some point be considering an application proposing that the two market leaders should be one. Whether the successor firm will be called VW-AT&T or whether it will be called AT&T-VW may well be determined by which firm can gobble up more of the market share currently controlled by regional players.

If the FCC decides to approve the Unicel takeover, this approval should be conditioned on enforceable commitments by Verizon Wireless and AT&T to meet the wireless needs of rural consumers. As someone who represents a rural state, I know that there are tens of thousands of people in the small State of Vermont who either have unreliable service or no service at all despite the fact that we have had two providers with a major presence – Verizon Wireless and Unicel – and a lesser presence from other carriers, including Sprint and U.S. Cellular.

The Department of Justice has determined that Verizon Wireless will have to divest Unicel assets in Vermont. AT&T is the proposed purchaser of these assets. AT&T's acquisition of Unicel's assets in Vermont does nothing to change the status quo for tens of thousands of Vermonters without reliable cell phone service. Those communities whose wireless needs have been ignored will continue to be ignored.

I am gratified that there will continue to be a GSM provider in Vermont. I am hopeful that AT&T's resources will mean better service for those Vermonters who have service now. Nothing in this transaction; however, makes it more likely that either AT&T or Verizon Wireless will expand coverage to communities that have been left behind. Even Unicel – which has expressly focused on rural areas⁴ – has failed to cover many of these areas of Vermont.

Rural Americans are just as deserving of adequate cellular coverage and a broad range of reliable wireless services as citizens in other more densely populated parts of the country. Without cell phone coverage, these areas are severely disadvantaged economically and socially, notwithstanding diminished public safety and first responder capabilities. Because of the economics of providing coverage to rural America, the FCC should rightly mandate build out requirements on carriers that wish to operate there. The FCC deserves credit for imposing build out requirements in the 700 MHz auction. That principle should be applied more broadly to all transactions so that all Americans can participate in the digital age.

If the FCC agrees that Verizon Wireless and AT&T should be committed to meeting the needs of rural Americans, my office would be pleased to provide, on very short notice, views of what level of commitment would be reasonable.

As part of conditioning approval on build-out requirements, I also want to provide information about the situation in Vermont that might be useful for your deliberations. As previously mentioned, because the wireless (and broadband) coverage issue is so severe, the state has created the Vermont Telecommunications Authority (VTA) to help remedy the problem. The VTA has been given some \$40 million in bonding authority to help meet this challenge.

The FCC should be aware that the VTA is prepared to finance, site, secure permits for, and build, in consultation with the carriers, a sufficient number of towers to substantially expand coverage across Vermont. In return the VTA asks that the carriers install their equipment and pay a monthly rental and maintenance fee to satisfy the debt service and maintenance. Analysis by the VTA demonstrates that this could be done in a manner that is profitable for the carriers.⁵

⁴ Rural Cellular Corporation, About Unicel, "Unicel serves rural areas where tourism, agriculture, and small businesses are prevalent." http://www.unicel.com/aboutus/corporate_info.

⁵ As part of the discussions between my office, the State of Vermont, and the carriers, my office was provided with proprietary information by more than one carrier. None of that information is included here. To the extent that the

In addition, the VTA has expressed interest in building out underserved and un-served areas in Vermont where carriers have no intention of building out, at no cost to Verizon Wireless, if Verizon Wireless agrees to lease PCS or other mobile spectrum to the VTA at favorable terms and provide the VTA with a preferred roaming agreement. In this situation, the VTA would effectively become a roaming company. Detailed analysis done by the VTA shows that such a build out would increase coverage in Vermont from 50 percent of the population to approximately 90-93 percent with the remainder reached through alternative technologies. Such a proposal would give Verizon Wireless virtual universal coverage in Vermont, which would bring in incremental revenue without financial risk.⁶

These proposals by the VTA could serve as a national model where public-private partnerships provide the vehicle for meeting the needs of rural consumers across America. Carriers in Vermont have stated that they will continue to have discussions with the VTA. Without the intervention of the FCC, I do fear that other matters will quickly occupy the time and attention of corporate decision-makers and the public interest will fail to be served to the extent it should be.

Based on the extensive discussions that took place between the carriers, the VTA, and my office, I am confident that the FCC could quickly devise an approval condition that would substantially expand wireless coverage to rural areas of Vermont and that could serve as a model for other states that want to make a similar commitment.

In closing, I believe it is important to point out that while I find myself opposing this transaction without conditions, it is done in the interest of making sure that consumers have more options at lower prices, and that all communities have access to wireless communications. In the end, my goal is to ensure that all consumers have access, on reasonable terms, to the services the wireless carriers provide. Approving the Unicef takeover without addressing the concerns contained herein would not advance that goal and therefore, would not be in the public interest.

Thank you and the other Commissioners of the FCC for your consideration of the concerns I have expressed in this letter. My staff and I are available should you have any questions about the issues or requests made herein.

Sincerely,



BERNARD SANDERS
United States Senator

description of the VTA's work or the discussions appears to lack factual depth it is the result of my office's effort to safeguard the confidentiality of the carriers' information. Certainly, I and my staff would be willing to discuss these items in more detail, as appropriate, with the safeguards necessary to protect information the carriers view as sensitive.

⁶ The public interest is certainly not served by allowing wireless companies to hoard spectrum that they have no intention of building out for the foreseeable future when you have a public entity that is willing to front all the build out costs. Some analogy may be drawn between this situation and the oil companies who are being criticized for securing leases on federal land that they then fail to diligently exploit.

cc: Michael J. Copps, FCC Commissioner
Jonathan S. Adelstein, FCC Commissioner
Deborah Taylor Tate, FCC Commissioner
Robert M. McDowell, FCC Commissioner