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Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of)
)
Applications of Cellco Partnership d/b/a Verizon)
Wireless and Atlantis Holdings LLC)
)
For Consent to Transfer Control of Licenses,)
Authorizations, and Spectrum Manager and *De*)
Facto Transfer Leasing Arrangements)
)
and)
)
Petition for Declaratory Ruling that the)
Transaction is Consistent with Section 310(b)(4))
of the Communications Act)

WT Docket No. 08-95

File Nos. 0003463892, *et al.*, ITC-T/C-20080613-00270, *et al.*

File No. ISP-PDR-20080613-00012

ORDER

Adopted: July 24, 2008

Released: July 24, 2008

By the Acting Chief, Wireless Telecommunications Bureau:

1. In this Order, we consider requests to extend the pleading cycle in the above-captioned proceeding. We find that it is in the public interest to extend the pleading cycle in the above-captioned proceeding by fifteen days. Petitions to deny are now due August 11, 2008, oppositions are due August 19, 2008, and replies are due August 26, 2008.

2. *Background.* Cellco Partnership d/b/a Verizon Wireless ("Cellco") and its wholly-owned subsidiary AirTouch Cellular ("AirTouch") (collectively, "Verizon Wireless")¹ and Atlantis Holdings LLC ("Atlantis Holdings") have filed a series of applications pursuant to Sections 214 and 310(d) of the Communications Act of 1934, as amended ("Communications Act").² In these applications, Verizon Wireless and Atlantis Holdings (collectively, the "Applicants") seek Commission approval of the transfer of licenses, authorizations, and spectrum manager and *de facto* transfer leasing arrangements through the transfer of control of subsidiaries of ALLTEL Corporation ("ALLTEL") and partnerships in which ALLTEL has either controlling or non-controlling general partnership interests (collectively, "ALLTEL Subsidiaries and Partnerships"). As proposed, the transfer of control will take place as a result of a merger whereby Abraham Merger Corporation ("Merger Sub"), a newly-formed, wholly-owned subsidiary of AirTouch, will merge with and into ALLTEL. At closing, the separate corporate existence of Merger Sub will cease, and ALLTEL will continue as the surviving corporation and as a wholly-owned subsidiary of AirTouch.

3. These transfer of control applications pertain to licenses for the Part 22 Cellular Radiotelephone Service, the Part 22 Paging and Radiotelephone Service, the Part 24 Personal

¹ Cellco is a general partnership in which Verizon Communications Inc. and Vodafone Group Plc, an English public limited company, indirectly hold, through wholly-owned subsidiaries, 55% and 45% of the partnership interests, respectively. Cellco holds a 100% indirect interest in AirTouch.

² 47 U.S.C. §§ 214, 310(d).

*Communications Service, the Part 27 700 MHz Band Service, the Part 27 700 MHz Guard Band Service, the Part 90 Industrial/Business Pool Service, the Part 90 Private Carrier Paging Service, the Part 90 Specialized Mobile Radio Service, the Part 101 Common Carrier Fixed Point-to-Point Microwave Service, the Part 101 Fixed Point-to-Point Microwave Service, the Part 101 39 GHz Auctioned Service, the Part 101 Local Television Transmission Service, and the Part 101 Local Multipoint Distribution Service,*³ as well as domestic and international Section 214 authorizations.⁴ The Applicants also request a declaratory ruling, pursuant to Section 310(b)(4) of the Communications Act,⁵ that the public interest would not be served by denying approval of the indirect foreign ownership in the licenses, authorizations, and spectrum manager and *de facto* transfer leasing arrangements held by the post-transaction ALLTEL Subsidiaries and Partnerships.⁶

4. The Wireless Telecommunications Bureau ("Bureau") placed the applications and petition for declaratory ruling on public notice ("Public Notice") on June 25, 2008.⁷ The Public Notice established a pleading cycle regarding the above-referenced applications and petition for declaratory ruling, with petitions to deny due July 25, 2008, oppositions due August 4, 2008, and replies due August 11, 2008.⁸

5. On July 22, 2008, Verizon Wireless submitted an *ex parte* letter outlining 85 cellular markets, in which both Verizon Wireless and ALLTEL currently provide service, that, as a result of discussions with the Department of Justice ("DOJ"), it has committed to divest.⁹ Specifically, Verizon Wireless is "committing to divest overlapping properties comprising the entire states of North Dakota and South Dakota, as well as overlapping properties comprising partial areas within 16 additional states: California, Colorado, Georgia, Idaho, Illinois, Kansas, Minnesota, Montana, Nevada, New Mexico, North Carolina, Ohio, South Carolina, Utah, Virginia and Wyoming."¹⁰ In regard to these divestitures, Verizon Wireless states that "[t]he specific spectrum, operations and other assets that will be divested in each market will be determined as part of ongoing discussions with the Department of Justice."¹¹ Further, Verizon Wireless notes that it has "received several inquiries about the impact of the transaction on CDMA and GSM roaming agreements that ALLTEL has with regional, small and/or rural carriers."¹² Verizon Wireless makes the following commitments to regional, small and/or rural wireless providers with which it has entered into roaming agreements:

First, each such regional, small and/or rural carrier that has a roaming agreement with Alltel will have the option to keep the rates set forth in that roaming agreement in force for the full term of the agreement, notwithstanding any change of control or termination

³ File Nos. 0003463892, *et al.* FCC File No. 0003463892 has been designated the for the lead application wireless radio services.

⁴ File Nos. ITC-T/C-20080613-00270, ITC-T/C-20080613-00271, ITC-T/C-20080613-00272.

⁵ 47 U.S.C. § 310(b)(4).

⁶ File No. ISP-PDR-20080613-00012

⁷ Verizon Wireless and Atlantis Holdings LLC Seek FCC Consent to Transfer Licenses, Spectrum Manager and *De Facto* Transfer Leasing Arrangements, and Authorizations, and Request a Declaratory Ruling on Foreign Ownership, WT Docket No. 08-95, *Public Notice*, DA 08-1481 (rel. June 25, 2008).

⁸ *Id.*

⁹ *Ex Parte* Letter from John T. Scott, III, Vice President & Deputy General Counsel Regulatory Law, Verizon Wireless, to Marlene H. Dortch, Secretary, Federal Communications Commission (July 22, 2008) ("Verizon Wireless *Ex Parte* Filing").

¹⁰ *Id.* at 1. The Verizon Wireless *Ex Parte* Filing contains a list of all markets the Applicants commit to divest. This list includes the CMA, State, and Market Name. *See id.* at 3-5.

¹¹ *Id.* at 1-2.

¹² *Id.* at 2.

for convenience provisions that would give Verizon Wireless the right to accelerate the termination of such agreement. Second, each such regional, small and/or rural carrier that currently has roaming agreements with both Alltel and Verizon Wireless will have the option to select either agreement to govern all roaming traffic between it and post-merger Verizon Wireless.¹³

6. On July 23, 2008, the Rural Telecommunications Group, Inc. ("RTG") filed a motion for extension of time, requesting that the Commission extend the pleading cycle for an additional seven days "in order to give interested parties sufficient time to analyze and respond to new information submitted by the applicants" in the Verizon Wireless *Ex Parte* Filing.¹⁴ RTG asserts that the Verizon Wireless *Ex Parte* Filing "raises new and substantial matters not contained in the original transfer of control application put out for public comment on June 25, 2008"¹⁵ and that there is good cause to waive the 30 day requirement for the filing of petitions to deny set forth in section 1.939(a)(2) of the Commission's rules¹⁶ because this information was not made available until two days before the deadline to file petitions to deny.¹⁷ RTG requests that the Commission establish a revised pleading cycle with petitions to deny due on August 1, 2008, oppositions due on August 11, 2008, and replies due on August 18, 2008.¹⁸ Alternatively, RTG argues that, to the extent the Verizon Wireless *Ex Parte* Filing represents a binding offer to divest the properties discussed therein and/or a binding commitment by the Applicants to unilaterally modify their existing roaming agreements with the applicable carriers, the Verizon Wireless *Ex Parte* Filing should be considered a major amendment to the transfer of control applications requiring a new public notice period.¹⁹

7. The National Telecommunications Cooperative Association ("NTCA") and the Law Firm of Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP ("Blooston *et al.*"), on behalf of its clients, filed comments, on July 24, 2008, in support of RTG's request to extend the pleading cycle by seven days.²⁰ Blooston *et al.* and NTCA agree with the arguments set forth by RTG supporting a seven-day extension of the pleading cycle and further argue that such a brief extension will not materially delay regulatory review of the proposed transaction.²¹

8. In addition, on July 24, 2008, Consumers Union, Free Press, Media Access Project, and Public Knowledge ("Consumers Union *et al.*") submitted a letter commenting on the RTG Extension Motion.²² Consumers Union *et al.* asserts that the Verizon Wireless *Ex Parte* Filing is a major

¹³ *Id.*

¹⁴ Motion for Extension of Time, filed by Rural Telecommunications Group, Inc., WT Docket No. 08-95, at 1 (filed July 23, 2008) ("RTG Extension Motion"). RTG also filed an erratum to the RTG Extension Motion in order to correct contact information. Erratum to Motion for Extension of Time, filed by Rural Telecommunications Group, Inc., WT Docket No. 08-95 (filed July 24, 2008)

¹⁵ *Id.* at 1.

¹⁶ 47 C.F.R. § 1.939(a)(2).

¹⁷ RTG Extension Motion at 2.

¹⁸ *Id.* at 1-2.

¹⁹ *Id.* at 2-3.

²⁰ Comments in Support of RTG Motion for Extension of Time, filed by National Telecommunications Cooperative Association, at 1 (filed July 24, 2008) ("NTCA Comments"); Comments in Support of RTG Motion for Extension of Time, filed by Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP, at 1 (filed July 24, 2008) ("Blooston *et al.* Comments").

²¹ NCTA Comments at 1-2; Blooston *et al.* Comments at 1-2.

²² Letter from Larry A. Blosser, Attorney, to Marlene H. Dortch, Secretary, Federal Communications Commission, WT Docket No. 08-95 (July 24, 2008) ("Consumer Union *et al.* Letter").

amendment to the pending transfer of control applications and that interested parties cannot analyze and respond to the Verizon Wireless *Ex Parte* Filing in three, or even seven days.²³ They request that the Commission issue a public notice establishing a new pleading cycle with petitions to deny due August 22, 2008 (30 days from availability of the major amendment), oppositions due September 2, 2008, and replies due September 9, 2008.²⁴

9. The Applicants filed, on July 24, 2008, an opposition to the RTG Extension Motion²⁵ and an *ex parte* presentation opposing the request for an extension of time filed by Consumers Union *et al.*²⁶ The Applicants argue that the Verizon Wireless *Ex Parte* Filing provides no basis for an extension, because it "only reduces the range of potential issues to be addressed in any filings here, and raises no new issue that were not already addressed in the Public Interest Statement filed with the transfer of control applications."²⁷ The Applicants state that the Verizon Wireless *Ex Parte* Filing provides an update on the status of DOJ's review and provides clarification of the roaming commitments.²⁸ They state that this information does not change the nature of the transaction, expand the competitive analysis that the parties and the Commission may conduct, and the clarification of the roaming commitment in the Public Interest Statement raises no new issues.²⁹ Further, the Applicants assert that the extension is unwarranted, at odds with Commission practice, and would unnecessarily delay the Commission's review of the transaction and delay the benefits that will result from this transaction.³⁰ Finally, although the Applicants see no reason why RTG or Consumers Union *et al.* could not omit any discussion that is no longer relevant due to the Verizon Wireless *Ex Parte* Filing, they assert that they will waive any objection to RTG or Consumers Union *et al.* addressing issues in its reply related to the Verizon Wireless *Ex Parte* Filing that should have been raised in any petition to deny that it may file.³¹ In the Opposition *Ex Parte* Presentation, the Applicants oppose Consumers Union *et al.*'s assertion that the Verizon Wireless *Ex Parte* Filing constitutes a major amendment under section 1.929 of the Commission's rules.³² They argue that the Verizon Wireless *Ex Parte* Filing does not amend the application, but rather, as discussed above, provides an update on ongoing negotiations with DOJ and clarifies one statement in the Public Interest Statement.³³ The Applicants argue that such updates and clarifications do not fall into any of the identified categories of a major amendment set forth in section 1.929 of the Commission's rules.³⁴

10. RTG filed a reply to the Applicants' opposition reiterating its arguments that the Verizon Wireless *Ex Parte* Filing contains new information that is not contained in the original transfer of control applications and asserting that Verizon Wireless's offer to honor existing ALLTEL roaming agreements

²³ *See id.*

²⁴ *Id.*

²⁵ Opposition of Atlantis Holdings LLC and Celco Partnership d/b/a Verizon Wireless to Motion for Extension of Time of Rural Telecommunications Group, Inc., WT Docket No. 08-95 (July 24, 2008) ("Opposition").

²⁶ Written Ex Part Presentation from Kathleen Q. Abernathy, Counsel to Atlantis Holdings LLC, and Nancy J. Victory, Counsel to Celco Partnership, to Marlene H. Dortch, Secretary, Federal Communications Commission, WT Docket No. 08-95 (July 24, 2008) ("Opposition *Ex Parte* Presentation").

²⁷ Opposition at 1-2; Opposition *Ex Parte* Presentation at 1-2.

²⁸ Opposition at 2.

²⁹ *Id.*

³⁰ *Id.* at 2, 4.

³¹ Opposition at 3; Opposition *Ex Parte* Presentation at 2.

³² 47 C.F.R. § 1.929; Opposition *Ex Parte* Presentation at 2.

³³ Opposition *Ex Parte* Presentation at 2

³⁴ *Id.*

does not reduce the potential issues to be addressed in this proceeding.³⁵ RTG also states that an *extension of one week will not cause delay in the overall timing of the transaction or delay the realization of any alleged transaction benefits.*³⁶

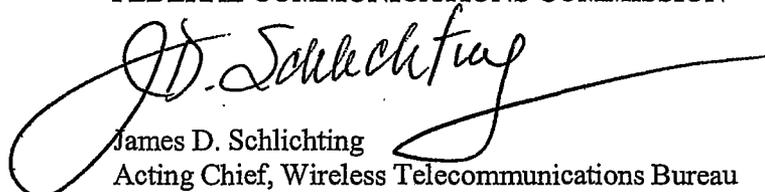
11. *Discussion.* The Bureau hereby grants a fifteen-day extension of the pleading cycle, but denies the request by Consumers Union *et al.* that the Commission establish a new 30-day period for the filing of petitions to deny, based on the view that the Verizon *Ex Parte* Filing is a major amendment. The Bureau finds that the justifications offered by RTG for an extension of the pleading cycle are valid. The Verizon Wireless *Ex Parte* Filing was filed two days prior to the petition to deny deadline and we find it is in the public interest to extend the petition to deny deadline, along with the opposition and reply deadlines, by fifteen days to allow interested parties time to consider and analyze the information therein and file petitions to deny. We do agree with Verizon Wireless, however, that this information is an update on the status of DOJ's review and is a clarification of the roaming commitments in the Public Interest Statement, and therefore does not constitute a major amendment. As a result, we decline to release a further public notice establishing the pleading cycle requested by Consumers Union *et al.*, which would equate to an approximate 30-day extension of the pleading cycle. Accordingly, the petitions to deny are now due August 11, 2008, oppositions are due August 19, 2008, and replies are due August 26, 2008.

12. Accordingly, IT IS ORDERED that, pursuant to sections 4(i), 303(r), and 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), 303(r), 310(d), and sections 1.939 and 1.948 of the Commission's rules, 47 C.F.R. §§ 1.939, 1.948, the Motion for Extension filed by Rural Telecommunications Group, Inc. requesting an extension to file petitions to deny, oppositions, and replies regarding the applications for transfer of control and the related petitions for declaratory ruling IS HEREBY GRANTED IN PART, and petitions to deny are due August 11, 2008, oppositions are due August 19, 2008, and replies are due August 26, 2008.

13. IT IS FURTHER ORDERED that, pursuant to sections 4(i), 303(r), and 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), 303(r), 310(d), and sections 1.939 and 1.948 of the Commission's rules, 47 C.F.R. §§ 1.939, 1.948, the request of Consumers Union, Free Press, Media Access Project, and Public Knowledge that the Commission release a public notice establishing a new pleading cycle with petitions to deny due August 22, 2008 (30 days from availability of the major amendment), oppositions due September 2, 2008, and replies due September 9, 2008 IS HEREBY DENIED.

14. This action is taken under delegated authority pursuant to sections 0.131 and 0.331 of the Commission's rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION


James D. Schlichting
Acting Chief, Wireless Telecommunications Bureau

³⁵ Reply to Atlantis and Verizon Wireless Opposition to RTG Motion for Extension of Time, filed by Rural Telecommunications Group, Inc., at 1-2 (July 24, 2008).

³⁶ *Id.* at 3.