

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Atlantis Holdings LLC,) **WT Docket No. 08-95**
Assignor/Transferor) **FCC ULS File Nos. 0003463892, et al.**
)
And)
)
Cellco Partnership d/b/a Verizon)
Wireless,)
Assignee/Transferee)
)
For Commission Consent to The)
Proposed Transfer of Licenses And)
Other Authorizations Held By)
Subsidiaries and Partnerships of)
ALLTEL Corporation)

To: Chief, Wireless Telecommunications Bureau

REPLY TO JOINT OPPOSITION

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Summary

The proposed merger of Verizon Wireless and ALLTEL (the nation's second largest and fifth largest competitors in a marketplace that is already highly concentrated) will have a profound impact on regional and small carriers and their customers. Allowing one dominant company to hold both 800 MHz cellular licenses in many rural markets, when local competitors depend on this dominant carrier to provide the voice and data roaming services their customers require, confers inordinate market power on the resulting cellular monopoly. The Commission can and should redress this disparity by imposing conditions on the merger to prevent anticompetitive harm to rural and regional wireless carriers and their customers.

Growing concentration in the wireless industry and FCC precedent require the FCC to evaluate the competitive effects of this proposed transaction on a CMA-by-CMA basis where there is an overlap of Verizon Wireless and ALLTEL holdings. The FCC should also impose conditions on the transaction that would require the merged entity to offer reasonable roaming rates and terms to competing wireless carriers, and to require that the merged entity offer roaming for 3G data and other services on reasonable terms, in foreign markets as well as on a "home roaming" basis. The Commission should also use this opportunity to protect consumers from anticompetitive practices involving wireless handsets.

Finally, the FCC should impose conditions on the transaction that would require the post-merger entity to provide cost justification if it is to retain ALLTEL's continued, massive high cost USF draw. This condition is warranted given ALLTEL's status as the largest high cost fund recipient and the \$10 Billion in transaction-related savings which Verizon Wireless touts.

The proposed merger of Verizon Wireless and ALLTEL is one of the largest transactions that will ever take place in the mobile wireless industry. It is therefore incumbent on the FCC to address the concerns that rural and regional service providers have raised before granting approval for the proposed transaction. Failure to do so will result in irreparable harm to rural and regional carriers and their customers.

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To: Chief, Wireless Telecommunications Bureau

REPLY TO JOINT OPPOSITION

South Dakota Telecommunications Association (“SDTA” or “Petitioner”), by its attorneys and pursuant to Section 1.45 (c) of the Commission’s Rules, and the Commission’s *Public Notice*, entitled “Verizon Wireless and Atlantis Holdings LLC Seek FCC Consent to Transfer of Licenses, Spectrum Manager and *De Facto* Transfer Leasing Arrangements, and Authorizations, and Request Declaratory Ruling on Foreign Ownership,” Mimeo DA 08-1481, released June 25, 2008 modified by *Order*, Mimeo DA 08-1733, hereby submits its reply to the Joint Opposition filed by Cellco Partnership d/b/a Verizon Wireless (“Verizon Wireless”), Atlantis Holdings LLC (“Atlantis”) and ALLTEL Corporation (“ALLTEL”) (collectively “VZW/ALLTEL” or the “Joint Opponents”). In support hereof, the following is shown:

¹ This file number has been designated the lead application. See *Public Notice*, Mimeo DA 08-1481, released June 25, 2008 at page 2 footnote 3.

In reviewing the record in this proceeding, a number of common themes are evident and point to a single inescapable fact. The proposed merger of Verizon Wireless and ALLTEL (the nation's second largest and fifth largest competitors in a marketplace that is already highly concentrated) will have a profound impact on regional and small carriers and their customers.² Allowing one dominant company to hold both 800 MHz cellular licenses in many rural markets, when local competitors depend on this dominant carrier to provide the voice and data roaming services their customers require, confers inordinate market power on the resulting cellular monopoly. The Commission can and should redress this disparity by imposing conditions to prevent anticompetitive harm in the wireless roaming and handset markets, by imposing divestiture conditions as discussed in SDTA's Petition, and by requiring Verizon Wireless to provide cost support for all USF support currently received by ALLTEL.

I. SDTA Has Standing to Seek Relief on Behalf of its Members

VZW/ALLTEL seems to attack SDTA's standing to file this petition by claiming that SDTA has not demonstrated harm to its members, since "they will see no change in the competitive landscape from the merger . . ."³ However, as discussed in the Petition, SDTA's members will certainly lose the benefit of having multiple large carriers in the state competing on roaming terms; and while Verizon has commendably offered certain grandfathering options for existing roaming agreement participants, these options will not prevent competitive harm after two years, or provide any relief for carriers that do not yet have an agreement with ALLTEL. Moreover, the combined VZW/ALLTEL will undeniably compete with SDTA's

² See, e.g., Comments of the Rural Cellular Association ("*RCA Comments*") *passim*; Petition to Dismiss or Deny of the Ad Hoc Spectrum Coalition ("*PISC Petition*") *passim*; Petition to Deny of Cellular South, Inc. ("*Cellular South Petition*") at pp. 7-23; Petition to Deny of the National Telecommunications Cooperative Association ("*NTCA Petition*") at pp. 2-8.

³ *Joint Opposition* at p. 42 n.132.

members for customers in at least certain portions of the state, with combined advantages that will surpass the already advantageous competitive position each carrier holds separately. The Joint Opponents go to great length to set forth these advantages at pp. 4-9 of the Joint Opposition. Thus, SDTA has clear cut standing in this matter.

II. The Competitive Effects of the Proposed Verizon Wireless – ALLTEL Merger Must Be Assessed at a CMA Level

In its August 11, 2008 Petition to Condition Transaction Approval, SDTA demonstrated that a local market – in particular, the Cellular Market Area (or “CMA”) – is the relevant geographic area for assessing the competitive effects of a merger between mobile wireless service providers. The Commission has consistently used CMAs as the basis for its competitive analysis in the context of proposed mergers and acquisitions in the wireless industry,⁴ yet VZW/ALLTEL urge the FCC to ignore this established precedent. Instead, the Joint Opponents urge the Commission to “judge the impact of the proposed transaction on competition on a nationwide basis rather than on any arbitrary localized basis,”⁵ and they dismiss valid precedent cited by SDTA and others critical of the proposed merger as “dated.” They also claim that “no

⁴ See Applications of AT&T Inc. and Dobson Communications Corporation For Consent to Transfer Control of Licenses and Authorizations, WT Docket No. 07-153, *Memorandum Opinion and Order*, 22 FCC Rcd 20295 at 20309 ¶ 23 (2007) (“*AT&T–Dobson Order*”); Applications for the Assignment of License from Denali PCS, L.L.C to Alaska DigiTel, L.L.C. and the Transfer of Control of Interests in Alaska DigiTel, L.L.C to General Communications, Inc., WT Docket No. 05-114, *Memorandum Opinion and Order*, 21 FCC Rcd 14863 at 14876 ¶ 27 (2006); Applications of Midwest Wireless Holdings, L.L.C. and ALLTEL Communications, Inc., WT Docket No. 05-339, *Memorandum Opinion and Order*, 21 FCC Rcd 11526 at 11542-43 ¶¶ 29-30 (2006); Applications of Nextel Partners, Inc., Transferor, and Nextel WIP Corp. and Sprint Nextel Corporation, Transferees, *Memorandum Opinion and Order*, 21 FCC Rcd 7358 at 13990 ¶ 56 (2006); Applications of Western Wireless Corporation and ALLTEL Corporation, WT Docket No. 05-50, *Memorandum Opinion and Order*, 20 FCC Rcd 13053 at 13070 ¶ 35 (2005); Applications of AT&T Wireless Services, Inc. and Cingular Wireless Corporation, WT Docket No. 04-70, *Memorandum Opinion and Order*, 19 FCC Rcd 21522 at 21562-63 ¶¶ 89-90 (2004).

⁵ *Joint Opposition* at p. 18.

evidence has been filed refuting the Applicants' showings that strong national forces limit the potential for either unilateral action or coordinated interactions by carriers at the local level."⁶

The Commission must reject the Joint Opponents' urgings to ignore the local market when analyzing the competitive effects of the proposed merger. The use of CMAs in this context is far from arbitrary. In an Order issued earlier this month, the FCC said that "CMAs represent the fact that the Commission's licensing programs have to a certain degree shaped this market by defining the initial areas in which wireless providers had spectrum on which to base service offerings, and they may therefore serve as a reasonable proxy for where consumers face the same competitors."⁷ Moreover, as discussed below, if a competitor is a national carrier but does not extend its coverage footprint into a particular CMA, customers that suffer from anticompetitive consequences in that CMA gain no relief from a national competition analysis. It is inexplicable for the Joint Opponents to characterize decisions cited by SDTA and others as "dated" when these same cases were cited with approval by the FCC in the *Verizon-RCC Order*.

SDTA does not dispute the existence of competition on a national level among certain companies in the wireless market, nor that there is a plethora of advanced wireless products and services available for the customers of nationwide carriers as a result of such competition. However, focusing on the nationwide market misses the point when assessing the injury to CMA-level competition that is certain to result if the merger is permitted to move forward without adequate safeguards. Only a dwindling number of nationwide players have access to this nationwide market, and rural and regional carriers are forced to compete on a smaller

⁶ *Id.*

⁷ *See Applications of Cellco Partnership d/b/a Verizon Wireless and Rural Cellular Corporation, WT Docket No. 07-208, Memorandum Opinion and Order and Declaratory Ruling, FCC 08-181 (August 1, 2008) ("Verizon-RCC Order") at Note 151.*

geographic scale – often on the basis a single CMA or a cluster of CMAs. This makes such smaller carriers dependent on an ever-shrinking pool of mega-carriers when they seek to offer roaming (both in-market and nationwide roaming) and other voice and data services that their customers demand. In CMAs where Verizon Wireless and ALLTEL are competitors, this competition has helped to ensure the availability of automatic roaming services for small and regional carriers, and just as important to keep rates for such services in check. But no amount of competition on a national level will serve to protect small and regional carriers in CMAs where the proposed merger will eliminate this competition. This is especially the case where the most mature and robust networks are generally those that utilize the cellular bands.

The competitive landscape of the wireless industry has not changed since the Commission adopted the *Verizon-RCC Order*, or since it set forth its CMA-based mode of analysis in the *AT&T-Dobson Order*.⁸ The FCC must therefore retain the CMA as its focus when evaluating the competitive effects of the proposed Verizon Wireless – ALLTEL merger, and adopt protective measures to redress the injury to competition that will be manifest at a CMA level.

The Joint Opponents argue that the rural carriers expressing concerns about the proposed merger are motivated by a desire to “impede competition and block improved services to rural areas.” Joint Opposition at p. iv. However, if that were the motivation, then SDTA would have sought to block the merger. Instead, SDTA filed a “Petition to Condition Transaction Approval”.⁹ Far from trying to prevent competition and improved rural services, SDTA is trying

⁸ *AT&T-Dobson Order*, 22 FCC Rcd 20295 at 20309 ¶ 23 (2007).

⁹ SDTA notes that VZW/ALLTEL erroneously label SDTA’s filing as a “Petition to Deny.” *See*, Joint Opposition at p. 13 Note 38.

to ensure that the carriers that have agreed to take on the burden of serving those rural areas that large carriers find to be unprofitable will be able to do so. As discussed in the Petition, if Verizon Wireless and ALLTEL are allowed to unconditionally create a mega-carrier that will be able to control the availability of roaming in rural areas (including most of South Dakota), the small, rural carriers will be unable to fulfill that important objective.

III. The FCC Should Utilize the 95 MHz Screen and HHI-Based Screening Tests on a CMA-by-CMA Basis for All Markets Where there is Overlap of Verizon Wireless and ALLTEL Holdings

The Joint Opponents argue that the Commission's 95 MHz initial competitive impact screen "is not [...] a spectrum cap or a presumption that aggregation beyond a certain level is anti-competitive, but rather only the beginning of [the FCC's] competitive analysis."¹⁰ While this may be the case, the Commission does not end its inquiry with just an analysis of the combined entity's spectrum holdings, but must evaluate factors such as the HHI in all overlap markets, and consider the respective market shares of Verizon Wireless and ALLTEL when evaluating the potential anticompetitive effects of the proposed merger.

Where the Commission's competitive analysis indicates that a divestiture of spectrum is in the public interest, the Commission should require Verizon Wireless to divest its excess holdings in a manner that will ensure rural carriers have a realistic opportunity to acquire the divested operations. SDTA again notes that it is encouraged by VZW/ALLTEL's offer to divest

¹⁰ *Joint Opposition* at pp. 19-20.

cellular properties throughout the State of South Dakota, and repeats its request that any divestiture be pursued under terms that are fair to rural carriers.¹¹

Certain other arguments raised by VZW/ALLTEL must be addressed. First, the Joint Opponents argue that the cellular cross ownership rule has been “abolished”, and that there is “no argument that cellular cross ownership is banned or unlawful.”¹² However, in the case of rural markets, the Commission replaced the original bright line cross ownership rule with a case-by-case approach.¹³ Thus, in certain cases, it is entirely possible that cellular cross-ownership may still be found unlawful because of its impact on competition. And in this case, VZW/ALLTEL will be a dominant carrier that will yield extraordinary market power in a marketplace that is becoming more and more consolidated.

Second, VZW/ALLTEL argues that Commission precedent is clear that considering conditions that may also be the subject of a rule making proposal is not appropriate in the context of a merger proceeding. Joint Opposition at pp. 42-43. However, SDTA provided ample precedent for the Commission’s broad authority to impose conditions on mergers, and the

¹¹ SDTA notes VZW/ALLTEL’s criticism that it is “disingenuous” that SDTA’s petition did not “take the [proposed 85-market] divestitures into consideration” in discussing the impact of the proposed merger. Joint Opposition at p. 37. However, SDTA explicitly cited to Verizon’s July 22, 2008 *ex parte* letter offering to be subject to a divestiture condition for these markets, and commended VZW/ALLTEL’s offer in this regard. SDTA Petition at p. 9. The *ex parte* letter did not commit VZW/ALLTEL to divesting the overlap markets unconditionally, and this offer does not arise to the level of a *fait accompli* unless and until the Commission orders VZW/ALLTEL to proceed with divestiture. Indeed, VZW/ALLTEL itself acknowledges this fact in the Joint Opposition (at p. 36 n. 107): “The only outstanding issue is *whether* and how the divestiture process will unfold.” (Emphasis added). Thus, SDTA’s efforts to urge that the Commission order a divestiture process were not disingenuous. SDTA is encouraged by the steps VZW/ALLTEL has taken thus far to proceed with the divestiture process.

¹² *Joint Opposition* at pp. 38-39.

¹³ Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies to Provide Spectrum-Based Services, *Report and Order and Further Notice of Proposed Rule Making*, 19 FCC Rcd 19078, 19114 (2004) (*Rural Report and Order*).

Commission imposed a freeze on USF as a condition of the ALLTEL/Atlantis merger, despite the pendency of a rulemaking proceeding on future restrictions on USF.¹⁴

IV. The FCC Should Require Automatic Roaming on Reasonable Terms for All Services Offered by VZW/ALLTEL Post-Merger

In recognition of the tremendous market power that will be wielded by Verizon Wireless if its proposed merger with ALLTEL is approved, SDTA and other commenters have urged the Commission to impose conditions on the merger that would require the merged entity to offer reasonable roaming rates and terms to competing wireless carriers, and to require that the merged entity offer roaming for 3G data and other services on reasonable terms, in foreign markets as well as on a “home roaming” basis.¹⁵ In response, VZW/ALLTEL claims that “conditioning the merger upon imposition of any kind of special conditions in these areas would create an unlawful regulatory disparity among competitors in the market,”¹⁶ that CDMA and GSM roaming opportunities will continue to exist in the vast majority of markets following the merger,¹⁷ and that it has already made voluntary commitments with respect to roaming that address any remaining concerns, including a new commitment to keep the rates set forth in ALLTEL’s existing agreements with each regional, small and/or rural carrier for the later of the full term of the agreement or for two years from the closing date.¹⁸

¹⁴ SDTA Petition to Condition Transaction Approval, dated August 11, 2008 (“*SDTA Petition*”) at p. 17.

¹⁵ See, e.g., *SDTA Petition* at pp. 10-14; Metro PCS Communications, Inc. and NTELOS, Inc. Petition to Deny, dated August 11, 2008 (“*Metro PCS Petition*”) at pp. 15-38; Rural Telecommunications Group Petition to Deny, dated August 11, 2008 (“*RTG Petition*”) at pp. 21-22.

¹⁶ *Joint Opposition* at p. 45

¹⁷ *Id.* at p. 46.

¹⁸ *Id.*

SDTA respectfully submits that imposing such conditions on Verizon in the post-merger market would be necessary and appropriate in light of the merged carrier's spectrum holdings and overwhelming market power (even when measured in terms of nationwide HHI), the fact that CDMA and GSM roaming opportunities may be limited to just one or two sources (resulting in no real choice for many small/rural carriers), and Verizon's commitments to abide by its existing agreements (or even to extend such arrangements for a limited term) are ineffective measures for carriers who are in the process of building rural networks, and who do not have existing roaming agreements with ALLTEL or Verizon Wireless.¹⁹ Moreover, the presence of ALLTEL in the market affects more than just Verizon's roaming prices. This is an important point. AT&T, Sprint and T-Mobile all provide roaming services, and all of them must take into account the price charged by ALLTEL. If it disappears, they can raise their prices, as can Verizon in two years.

VZW/ALLTEL also argues at page 47 that roaming is not a valid product market, essentially because consumers do not "buy" roaming. This argument is akin to saying that steel is not a market because consumers do not buy steel. While they do not buy steel directly, they buy cars and other goods that are composed in part of steel. Similarly, consumers buy wireless phone service that includes roaming. That is a significant input into the product consumers buy, and if it is expensive or unavailable, that affects the desirability of the product as a whole.

The Joint Opponents further argue that roaming will not be affected because there are other competitors offering roaming service. They argue that, if Verizon demands too high a

¹⁹ Contrary to the arguments of Joint Opponents at p. 57, SDTA does not propose rate regulation. SDTA's petition merely proposes that the Commission establishes guidelines for what is a reasonable roaming rate, not unlike the "safe harbor" approach used by the Commission in determining if a wireless build out constitutes "substantial service."

price for roaming, smaller carriers can switch to an alternative source. However, as discussed above, there will be fewer competitors offering roaming service, and as the number of competitors declines, the incentive to offer competitive prices declines as well. If a small carrier is unable to secure a roaming agreement on reasonable terms, it will quickly go out of business due to an inability to attract and maintain customers.

For this same reason, the Commission must reject VZW/ALLTEL's argument (at pp. 11, 53) that roaming choices will increase because CDMA and GSM carriers are eventually converging through the implementation of LTE as their 4G play. By the time LTE is implemented in rural areas on a widespread basis, thereby creating additional roaming opportunities, rural carriers will likely be out of business.

VZW/ALLTEL argues (at pp. 62-63 of the Joint Opposition) that it should not be required to provide roaming for 3G data service, because this feature is an "information service" only. However, the Commission can take official notice that data/internet access is widely offered as a service that is bundled with voice, which is clearly a telecommunications service. Therefore, the public interest requires that both services be the subject of a roaming requirement.

V. The FCC Should Protect Consumers from Anticompetitive Practices Involving Wireless Handsets

As the demand for wireless services grows, the ability to offer exclusive access to the latest wireless devices confers a significant competitive advantage on the nation's largest carriers. Verizon Wireless enjoys significant competitive benefits from its ability to negotiate exclusive handset distribution arrangements, and smaller/rural carriers find themselves, as a result, with little or no access to the most sought-after wireless devices. Accordingly, SDTA and

numerous other petitioners have urged the Commission to take steps to prevent the post-merger VZW/ALLTEL from exacerbating this already-difficult handset availability situation. For their part, the Joint Opponents argue that exclusive handset arrangements are actually pro-consumer,²⁰ that imposition of exclusivity restrictions on Verizon Wireless would not achieve the desired result,²¹ and that an inventory of “generic” mobile handsets is not feasible without a radical shift in the wireless market.²²

As the Commission itself has recognized, there is a disparity in the ability of Tier II and Tier III carriers to gain access to the latest wireless devices and this delay can impact carriers’ ability to achieve timely compliance with important regulatory mandates, such as hearing aid compatibility.²³ Verizon’s ability to control handset availability is acknowledged by Verizon’s argument that a benefit of the proposed merger will be to give ALLTEL’s customer’s access to a greater variety of wireless devices.²⁴ The proposed merger will only magnify the competitive disparity between Verizon and its smaller competitors. SDTA submits that conditioning exclusive handset arrangements as suggested in the SDTA petition would create a much larger, robust market for handset manufacturers to sell their latest handsets (spurring economies of scale and reducing the per-unit cost for research and development); and that this merger condition sought by SDTA and numerous others would not require a radical shift in the wireless market, other than Verizon giving up its dominance of the wireless handset market. To alleviate Verizon’s concerns about disparate treatment, the Commission may extend this reasonable and

²⁰ *Joint Opposition* at p. 73.

²¹ *Id.* at pp. 73-74.

²² *Id.* at p. 74.

²³ Amendment of the Commission’s Rules Governing Hearing Aid-Compatible Mobile Handsets, WT Docket No. 07-250, *First Report and Order*, 44 CR 565, 23 FCC Rcd 3406 (2008) at para. 41.

²⁴ *Joint Opposition*, at p. 7.

pro-competitive prohibition to other wireless carriers by taking prompt and favorable action on the Rural Cellular Association's recent *Petition for Rulemaking* addressing this issue.²⁵

VI. Verizon Should Be Required to Provide Cost Support for All USF Support Currently Received by ALLTEL

In its petition, SDTA urged the Commission to impose conditions on the post-merger VZW/ALLTEL that would require the merged entity to provide cost justification for ALLTEL's continued, massive high cost USF draw. This proposed condition is warranted, given ALLTEL's status as the largest high cost fund recipient,²⁶ together with the \$10 Billion in transaction-related savings, which Verizon Wireless touts as a result of the transaction.²⁷

As a threshold matter, it should be noted that the Joint Opposition appears to erroneously attribute to SDTA the argument that Verizon Wireless must forego ALLTEL's high cost funding as a result of the transaction.²⁸ The SDTA Petition, however, makes no such claim.²⁹ It merely seeks the imposition of the condition to the transaction which requires a cost showing in order to receive high cost funding, post-transaction.³⁰

²⁵ Petition for Rulemaking Regarding Exclusivity Arrangements Between Commercial Wireless Carriers and Handset Manufacturers, filed May 20, 2008 ("*RCA Handset Petition*").

²⁶ The Joint Opponents do not challenge the assertion that ALLTEL has the largest high-cost draw in the fund. Rather, they argue only that its draw does not represent the majority of the high cost fund. See *Joint Opposition* at p. 79.

²⁷ *SDTA Petition* at pp. 14-18.

²⁸ See *Joint Opposition* at pp. 75 (Note 243), 78.

²⁹ Likewise, it should be noted that the Joint Opponents argue that a merger proceeding is not the appropriate venue to conduct ETC redesignation, citing to *AT&T/Dobson* (where petitioners wanted the post-merger entity to lose its ETC designation). Again, the case is factually distinguishable because, as Petitioner points out, Petitioner is not seeking to have post-merger ALLTEL stripped of its ETC designation.

³⁰ *SDTA Petition* at p. 18.

Indeed, Verizon Wireless avoids addressing the issue of how the proposed merger will affect ALLTEL's universal service fund costs. Instead of discussing this reality – plainly implicated by the “\$10 Billion” in savings it claims – it suggests that the Petitioner wants “an entirely new ETC designation process and reimbursement system applicable only to Verizon Wireless.”³¹

But, of course, the proposed condition is no more a call for “an entirely new” ETC designation process than was the Commission's decision to cap ALLTEL's USF draw in the first instance.³² There the Commission recognized that ALLTEL's massive USF draw merited a cap, a mechanism that was then under consideration as a policy reform for competitive ETCs – and which was later adopted, on an interim basis, for the competitive ETC industry at large.³³

Now, the Petitioner submits that a USF-related cost showing is appropriate. Verizon Wireless' transaction-related savings (of \$10 Billion) are certainly sizeable and unique enough to warrant a cost showing. Indeed, as was the cap condition in the ALLTEL/Atlantis merger proceeding, the subject of requiring a cost showing for competitive ETCs is currently before the Commission in the ongoing USF reform docket.³⁴

³¹ *Joint Opposition* at p. 80.

³² *See Applications of ALLTEL Corporation and Atlantis Holdings, LLC; Memorandum Opinion and Order*, WT Docket No. 07-185 (October 26, 2007) (“*ALLTEL Merger Order*”).

³³ *See High-Cost Universal Service Support; Federal-State Joint Board on Universal Service, Order*, WC Docket No. 05-338, CC Docket No. 96-45, FCC 08-122 (*rel.* May 1, 2008) (“*Interim Cap Order*”).

³⁴ *See High-Cost Universal Service Support; Federal-State Joint Board on Universal Service, Notice of Proposed Rule Making*, WC Docket No. 05-338, CC Docket No. 96-45, (*rel.* January 29, 2008) at ¶¶ 5, 19 (tentatively concluding that competitive ETCs should be compensated for high-cost support based on their own costs).

Finally, the Commission should reject the claim that the proposed cost sharing requirement would violate the principle of “competitive neutrality.”³⁵ This argument is based upon the mistaken premise that ALLTEL’s high-cost funding will be eliminated because of Verizon Wireless’ size. But, as earlier discussed, this argument ignores the rest of the condition proposed by SDTA, *i.e.*, that the newly-merged entity provide a cost showing in order to maintain its high-cost funding. And, while the other wireless carriers such as AT&T and Sprint may not be required to demonstrate their costs in such a fashion (that is, until the referenced *NPRM* results in an order), none of those carriers evidence the massive USF draw which ALLTEL enjoys, together with the historic, multi-billion dollar savings promised by Verizon Wireless.

WHEREFORE, SDTA requests that this petition be granted; and that the Verizon – Atlantis transfer of licenses applications be conditioned in the manner described above.

Respectfully submitted,

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³⁵ *Joint Opposition* at p. 78.

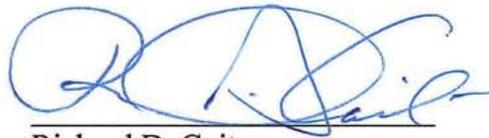
DECLARATION UNDER PENALTY OF PERJURY

I, Richard D. Coit, hereby state the following:

1. I am the Executive Director of the South Dakota Telecommunications Association.

2. I have read the foregoing "Reply." With the exception of those facts of which official notice can be taken, all facts set forth therein are true and correct to the best of my knowledge, information and belief.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 26th day of August, 2008.



Richard D. Coit

CERTIFICATE OF SERVICE

I hereby certify that I am an attorney with the law offices of Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP and that on August 26, 2008 I caused to be sent by electronic mail (e-mail), a copy of the foregoing "**Reply to Joint Opposition**" to the following:

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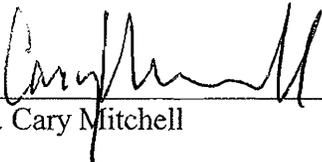
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