

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

In the Matter of)	
)	
Applications of Cellco Partnership d/b/a)	WT Docket No. 08-95
Verizon Wireless and Atlantis Holdings LLC)	
)	
For Consent to Transfer Control of Licenses,)	File Nos. 0003463892, <i>et al.</i> , ITC-T/C-
Authorizations, and Spectrum Manager and)	20080613-00270, <i>et al.</i>
<i>De Facto</i> Transfer Leasing Arrangements)	
)	
and)	
)	
Petition for Declaratory Ruling that the)	File No. ISP-PDR-20080613-00012
Transaction is Consistent with Section)	
310(b)(4) of the Communications Act)	

**PETITION FOR RECONSIDERATION,
OR IN THE ALTERNATIVE, CLARIFICATION**

United States Cellular Corporation, Carolina West Wireless, Inc., and NE Colorado Cellular, Inc., d/b/a Viaero Wireless (collectively, “Petitioners”), by counsel and pursuant to Section 1.106 of the Commission’s rules, hereby files a petition for reconsideration, or in the alternative, clarification, in the above-captioned proceeding. In support of this petition, the following is respectfully stated:

On November 10, 2008, the Commission released a Memorandum Opinion and Order and Declaratory Ruling (“Order”), granting the transfer of control of subsidiaries of ALLTEL Corporation (“ALLTEL”) and partnerships in which ALLTEL has either controlling or non-controlling general partnership interests to Verizon Wireless and Atlantis Holdings LLC

(collectively, “Verizon”).¹ Petitioners seek reconsideration or clarification to obtain from the Commission a definitive statement as to the operation of Verizon’s voluntary commitment to reduce its universal service support by 20% per year.²

Specifically, the Commission should clarify its Order as follows:

As of the effective date of the Order, Verizon’s federal high-cost support shall be fixed, on a state-by-state basis, and reduced by 20%. On each anniversary thereafter, Verizon’s support in each state shall be reduced by 20% from the initial fixed amount. Verizon’s support shall not be increased by virtue of any mergers or acquisitions, until its support is reduced to zero, or a successor universal service mechanism adopted. Verizon’s support may be reduced if divests assets generating high-cost support.

I. STATEMENT OF INTEREST.

Section 1.106(b)(1) requires a petitioner who is not a party to the proceeding to state with particularity the manner in which its interests are adversely affected by the action taken and to show good reason why it was not possible to participate in the earlier stages of the proceeding.

Verizon has voluntarily agreed to reduce its universal service support by 20% per year, beginning no later than December 31, 2008. In reviewing the *ex parte* presentation made by Verizon prior to the Order’s adoption³ as well as the relevant parts of the Order, it is unclear how the step down will be operationalized in the many states where Verizon would become eligible to draw federal high-cost support. In some of these states, Petitioners are eligible

¹ Pursuant to 47 C.F.R. Section 1.106(f), petitions for reconsideration are due within 30 days after the Commission takes final action. Accordingly, this petition is timely filed.

² See, Order at paras. 192-97.

³ See, *ex parte* letter from John T. Scott III to Marlene H. Dortch dated November 3, 2008.

telecommunications carriers (“ETC”).⁴ As described below, Petitioners may be adversely affected by the operation of Verizon’s step-down commitment, depending upon whether Verizon is permitted to merge a subsidiary license company into an entity that is currently an ETC. In such a scenario, Verizon could seek to submit its currently ineligible line counts to USAC through Alltel’s ETC-eligible entity. In so doing, Verizon would significantly increase its support and by virtue of the interim cap imposed by the Commission, reduce support to other ETCs within the state. Increasing the amount of support that Verizon would receive by submitting lines that are currently ineligible for support seems to fly in the face of Verizon’s voluntary commitment to reduce the amount of support they receive through the use of a step-down.⁵

Petitioners’ reason for making the instant filing is more than theoretical. On information and belief, Petitioners understand that Verizon intends to make at least one filing to consolidate its corporate ownership structure in the state of Maine, which could result in the adverse effects described herein.

Petitioners could not participate in the earlier stages of the proceeding because the possibility of Verizon’s voluntary commitment was not published until Verizon’s ex parte letter appeared in the FCC’s Electronic Comment Filing System on November 4, 2008, the day of the FCC’s open meeting wherein the merger was approved. That date was one week after the

⁴ For example, Kansas, Virginia, Colorado, North Carolina, and Nebraska.

⁵ We note here the substantial likelihood that Verizon has valid business reasons to streamline its corporate structure as a result of this and other acquisitions. Petitioners do not question Verizon’s motives, but seek only a clarification of the Order to avoid an unintended consequence that would have a significant adverse effect on other ETCs.

Commission's Sunshine Notice in the captioned proceeding was published.⁶ Once inside the Sunshine Period, parties were prohibited from making presentations to the Commission opposing or otherwise requesting clarification of this matter. Even if Petitioners were not prohibited by the Sunshine Period, it would have hardly been practical to make a presentation when the information was revealed on November 4, the very day of the Commission's open meeting.

Petitioners, through the exercise of ordinary diligence, could not have learned of Verizon's proposed step-down commitment before its publication on ECFS.⁷ To the best of Petitioners' knowledge, the step-down commitment set forth in this proceeding has never been imposed by the Commission in any prior proceeding. As such, this filing represents the first opportunity for Petitioners to participate in this proceeding on the matters raised herein.

To illustrate how Petitioners would be adversely affected, take for example a state where, (1) one or more of Petitioners is an ETC, (2) Alltel is an ETC, and (3) Verizon has operations in the state and is not an ETC. If Verizon merges its subsidiary company into Alltel's corporate entity and reports all of the line counts, Petitioners (and all other competitive ETCs within the state) would receive less support.⁸ The prospect of Petitioners' support being substantially reduced will significantly harm their ability to meet the commitments made to the FCC and state public utility commissions to respond to all reasonable requests for service and to build new facilities. This establishes how Petitioners would be adversely affected.

⁶ Sunshine Notice (released October 28, 2008) (appearing in Nov. 29 Daily Digest).

⁷ 47 C.F.R. Section 1.106(c).

⁸ Presumably, Verizon's step-down commitment would also apply in states where it is merging its operations with those of Rural Cellular Corporation, which closed earlier this year.

II. REQUEST FOR RELIEF.

When the merger is consummated, there will be a number of states where Verizon's current operations overlap those of Alltel. Once the Alltel transaction closes, Petitioners understand that Verizon may seek to merge its ineligible corporate entity into the Alltel entity that is an existing ETC. In most states, Verizon has a substantial number of customers, and the addition of its line counts to USAC filings would substantially increase the amount of support it receives. Such a transaction may serve to increase support to Verizon on an interim basis, while reducing support to other competitive ETCs within the state, including Petitioners.

Under the interim cap imposed by the FCC earlier this year, support is capped on a statewide basis.⁹ Thus, when one ETC's line counts increase, it decreases the support to other competitive ETCs in subsequent reporting periods. For example, if Verizon increases line counts in its March 30, 2009 line count submission, its support would increase in the third and fourth quarter of the year and support to other ETCs in the state would decrease. A decrease in support to a competitive ETC that is attempting to build out its network in rural areas, pursuant to commitments it has made to a state commission or the FCC, is prejudicial harm that can be remedied through reconsideration or clarification.

Accordingly, Petitioners ask the Commission to clarify that, as of the effective date of the Order, Verizon's federal high-cost support shall be fixed, on a state-by-state basis, and reduced by 20%. On each anniversary thereafter, Verizon's support in each state shall be reduced by 20% from the initial fixed amount. Verizon's support shall not be increased by

⁹ High-Cost Universal Service Support, Federal-State Joint Board on Universal Service (Order), FCC 08-122, (rel. May 1, 2008).

virtue of any mergers or acquisitions it effectuates until its support is reduced to zero, or a successor universal service mechanism adopted. Verizon's support may be reduced if divests assets generating high-cost support.

In order to encourage transparency, the Commission should publicly release the amount of support that Verizon is entitled to receive in each state, as of December 31, 2008, so that the maximum amount of support it will receive in each state, in each subsequent year, can be definitively established.

Should the Commission believe that Verizon is permitted to increase its support by submitting additional line counts during interim periods, thereby reducing support to competitors, then Petitioners seek reconsideration of the step-down condition. Reconsideration is appropriate because the imposition of a step-down condition is completely unrelated to the criteria for granting an application for transfer of an FCC license, is arbitrary and capricious, and otherwise contrary to law. We note for example, the obvious disconnect in the Order at paragraph 207, wherein the Commission ruled that the appropriate place to consider radiofrequency emissions issues is a rulemaking proceeding, not within the context of an application to transfer an FCC license. Given that there is a pending rulemaking proceeding to consider universal service reform (Docket 05-337), it is just as inappropriate to address this issue within the context of an FCC license transfer application proceeding.

By allowing other ETCs to be prejudiced by operation of Verizon's step-down without providing any prior notice or opportunity to comment, the Commission has denied fundamental due process rights to Petitioners and other affected competitive ETCs.

III. CONCLUSION.

By clarifying how Verizon's step-down will operate, the Commission can bring much needed certainty to all ETCs operating in the numerous states where Verizon and Alltel operations overlap. For all of the reasons set forth above, the Commission should issue the clarification requested herein.

Respectfully submitted,

UNITED STATES CELLULAR CORPORATION
CAROLINA WEST WIRELESS, INC.
NE COLORADO CELLULAR, INC., d/b/a VIAERO
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December 10, 2008

CERTIFICATE OF SERVICE

I, David LaFuria, hereby certify that on this 10th day of December, 2008, copies of the foregoing document were sent by e-mail to:

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