

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

In the Matter of )  
 )  
Petition for Rulemaking Regarding the Transition of )  
Part 22 Cellular Services to Geographic Market-Area ) RM No. 11510  
Licensing )  
 )  
Petition for Rulemaking of CTIA – The Wireless )  
Association® )  
\_\_\_\_\_ )

**REPLY COMMENTS OF VERIZON WIRELESS**

Verizon Wireless, pursuant to Section 1.405(b) of the Commission’s rules, 47 C.F.R. § 1.405(b), hereby submits these reply comments in support of the petition filed by CTIA – The Wireless Association® seeking a rulemaking to transition the Part 22 Cellular Radiotelephone Service from a site-based to a market-based licensing model.<sup>1</sup> As Verizon Wireless noted in its comments, the current licensing system is broken and imposes enormous costs on licensees and the Commission staff for no compelling purpose. As such, adoption of the CTIA proposal is warranted.

Some have argued that the proposed transition is nothing more than a way for incumbent existing licensees to lay claim to unserved areas. Verizon Wireless disagrees -- the negligible number of unserved area applications in recent years demonstrates that there are few unserved areas that can viably support a stand-alone system. In any event, Verizon Wireless’s principal objective in this proceeding is for the Commission to improve the Commission’s cellular license

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<sup>1</sup> See Wireless Telecommunications Bureau, Public Notice DA 09-5 (Jan. 5, 2009); *Petition for Rulemaking of CTIA – the Wireless Association®*, RM No. 11510 (Oct. 8, 2008) (“CTIA Petition”).

rules in a manner that significantly reduces burdens currently encountered by the industry and the Commission, while at the same time improving the quality and accuracy of Commission license records for everyone's benefit. Accordingly, Verizon Wireless urges the Commission to adopt a market-based licensing model even if it seeks to preserve an unserved area licensing process. It also urges the Commission to adopt that model quickly, because the sooner the cellular rules are updated, the sooner the benefits will occur for licensees and the Commission.

#### **I. THE SITE-BASED CELLULAR LICENSING MODEL IS INEFFICIENT AND FUNDAMENTALLY FLAWED**

The commenters in this proceeding generally agree that site-based licensing is intrinsically more burdensome and expensive to administer than a market-based system.<sup>2</sup> Site-based systems impose comparatively greater application filing requirements on licensees, and require a greater level of oversight and administration by Commission staff. As Verizon Wireless previously observed, Commission staff have processed more than ten times the number of major modification applications for licensees in the cellular service than for licensees in the broadband PCS service since 1995 (the year in which it first issued licenses to PCS auction winners)<sup>3</sup> The fundamental question in this proceeding, therefore, is not whether site-based cellular licensing is burdensome, but whether it continues to yield demonstrable public interest

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<sup>2</sup> *But see*, Comments of Commnet Wireless, RM No. 11510, at 10 (Feb. 23, 2009) arguing that converting cellular to a market-based licensing system will not reduce the amount of technical data the Commission is required to maintain. This is simply not the case. Once license boundaries are established (*i.e.*, either by county or market boundary, or by plotted geographic coordinates), there is no longer any need to maintain voluminous site-based technical data, including height, power, antenna pattern, radial data, and all other technical variables impacting service area predictions. Even assuming the Commission retains site-based data in its license archives, transitioning to a market-based licensing scheme will eliminate the need for licensees and Commission staff to continually maintain and update such data every time a minor technical adjustment potentially impacts a licensee's service area.

<sup>3</sup> Comments of Verizon Wireless, RM No. 11510, at 10 (Feb. 23, 2009). ULS records show 15,483 cellular and 1,148 broadband PCS major modification applications granted since 1995 (the year in which auctioned broadband PCS licenses were first issued), and a total of 49,193 cellular major modification applications over all.

benefits that justify its on-going and considerable cost. The facts in this proceeding simply do not support such a conclusion.

For example, both Commnet Wireless and GCI state that they have filed a number of unserved area applications in the last year, and have plans to file more applications in the future.<sup>4</sup> A review of ULS reveals, however, that in fact there have been only a handful of applications. Indeed, only 92 applications for new, unserved area cellular licenses have been granted in the last 10 years, and these involved just 57 of the Commission's 734 cellular markets (*i.e.*, less than 10%). In short, the Commission should not maintain the current site-based licensing system for the sole purpose of preserving a handful of opportunities in a limited number of markets.

The short-comings of site-based licensing in the cellular service are further exacerbated by the Commission's use of the Cellular Geographic Service Area ("CGSA") model for the twin purpose of determining both a licensee's reliable service area as well as its license borders. In other radio services, such as broadband PCS, the Commission allows licensees to determine an appropriate reliable signal strength standard based on the particular propagation characteristics of the technology deployed, and determines license area boundaries in a completely unrelated way.<sup>5</sup> Even in the 700 MHz service, where a licensee risks losing license territory that it does not serve, the Commission has not imposed a site-based licensing system, nor has it mandated a uniform signal strength standard for all technologies.

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<sup>4</sup> See Commnet Wireless at 4; Comments of GCI Communication Corp., RM No. 11510, at 2 (Feb. 23, 2009).

<sup>5</sup> See, *e.g.*, *Amendment of the Commission's Rules to Establish New Personal Communications Services*, Second Report and Order, 8 FCC Rcd 7700, 7774 n. 130 (1993). "The minimum field strength necessary for reliable service can be expected to vary from system to system, depending on the technology employed and other qualitative factors that can not be predicted at this time." As such, "[i]n demonstrating compliance with construction and coverage requirements, we will allow licensees to individually determine a minimum field strength for reliable service in their PCS system, taking into account the technology employed and other relevant factors."

By contrast, the CGSA model requires cellular licensees to use an analog-derived signal strength standard to determine the areas in which reliable service is provided by digital transmission technologies (regardless of the very different propagation and operational characteristics involved), which simultaneously establishes the licensee's license boundaries.<sup>6</sup> Put simply, no rational purpose is served by compelling licensees and Commission staff to use an analog standard to measure reliable digital service, and to determine license boundaries based on the results of this calculation, all of which creates needless "make-work" for everyone.<sup>7</sup> The Commission's limited resources should be invested more efficiently.<sup>8</sup>

## **II. THE COMMISSION CAN TRANSITION THE CELLULAR SERVICE TO MARKET-BASED LICENSING WHILE PRESERVING UNSERVED AREA LICENSING OPPORTUNITIES.**

Verizon Wireless continues to believe that there are few, if any, significant cellular unserved area licensing opportunities remaining in the United States, and certainly not enough to justify the Commission's continued use of site-based licensing in any event, which is why it supports CTIA's proposal. Nevertheless, should the Commission conclude that such opportunities must be preserved, Verizon Wireless urges a transition to a market-based licensing system that simultaneously preserves an unserved area licensing process for areas greater than 50 square miles (*i.e.*, those areas that are currently subject to the unserved area licensing rules).

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<sup>6</sup> Commnet's assertion that the 32 dBu contour standard is technologically neutral misses the point. Commnet at 7. The 32 dBu standard is intended to measure the minimal signal strength needed to provide reliable service to analog receivers in the 850 MHz band. By contrast, providing reliable digital service requires different signal strengths depending on modulation, signal type (*e.g.*, CDMA, GSM, LTE, *etc.*), and whether voice, data and/or video communications are involved. As with PCS, there is no reason or need for the Commission to maintain any contour standard, since under the market-based licensing model, well-known market boundaries define the license.

<sup>7</sup> See *Sunset of the Cellular Radiotelephone Service Analog Service Requirement and Related Matters*, Memorandum Opinion and Order, 22 FCC Rcd 11243, 11267 (2007).

<sup>8</sup> See Comments of AT&T, Inc., RM No. 11510, at 1 (Feb. 23, 2009) noting the focus of the new Administration on improving agency efficiency and removing unnecessary administrative burdens.

Areas less than 50 square miles should be added to the new market-based license area of the initial licensee on the same cellular channel block.<sup>9</sup>

For example, as the Rural Telecommunications Group rightly observes, the Commission could award market-based cellular licenses using a licensee's current CGSA to plot its license area boundaries.<sup>10</sup> Where a licensee's previously-approved CGSA encompasses an entire cellular market area ("CMA"), it would be issued a market-based license for the entire CMA.<sup>11</sup> Where a licensee's CGSA does not follow CMA or county boundaries, for example, the boundary could be depicted using geographic coordinates much in the way the Commission captures "undefined" areas for other services in its license records.<sup>12</sup> Once set, these boundaries would be fixed, and would no longer fluctuate depending on the results of on-going CGSA calculations performed every time a technical change in a border cell site is undertaken. Rather, much in the way the Commission regulates other market-based wireless services, cellular licensees would be able to deploy and modify facilities anywhere within its fixed license area subject to a market boundary signal strength limit needed to protect licensees in adjacent markets from co-channel interference.

In addition to helping cellular licensees realize the benefits of market-based licensing, this approach would also greatly improve the accuracy and transparency of the Commission's license records. Instead of relying on often illegible CGSA maps culled from the Commission's

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<sup>9</sup> These small areas are not currently subject to licensing to anyone other than the initial licensee, so no rights would be impacted by this change. *See, e.g.*, Comments of the Rural Telecommunications Group, Inc., RM No. 11510, at 6 (Feb. 23, 2009).

<sup>10</sup> Rural Telecommunications Group at 6.

<sup>11</sup> Comments of the National Telecommunications Cooperative Association, RM No. 11510, at 4 (Feb. 23, 2009). Also note that such an approach would be consistent with the licensing status of cellular carriers in the Gulf of Mexico. *See* Comments of the National Telecommunications Cooperative Association, RM No. 11510 (Feb. 23, 2009).

<sup>12</sup> For example, the Commission defines a "partitioned" PCS market by identifying a set of geographic coordinates that, when plotted, clearly delineate the partitioned license area.

archives, interested parties would be able to precisely plot license areas based on the fixed geopolitical or coordinate-defined boundaries specified in ULS. Such an approach would make it easier for applicants to identify unserved area opportunities, including those that might not have been indentified previously owing to limitations in Commission license records. Of course, the Commission would need to modify its unserved area license application rules to accommodate a licensing paradigm based on fixed market boundaries rather than reliable service contours, but this should be straightforward since it can be based on rules for other market-based wireless services.

### III. CONCLUSION

As Verizon Wireless observed in its comments, the Commission's cellular licensing rules are outdated and administratively burdensome, and they limit the ability of cellular carriers to implement technology upgrades to best serve customers. Having served its intended purpose, the Commission's site-based licensing model should be replaced by the same market-based approach used in other CMRS services. Verizon Wireless therefore supports CTIA's Petition for Rulemaking. In the alternative, Verizon Wireless urges the Commission to adopt a market-based license system even if it chooses to preserve unserved area licensing opportunities.

Respectfully submitted,

**VERIZON WIRELESS**

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## CERTIFICATE OF SERVICE

I, Sarah Trosch, hereby certify that on March 9, 2009, a true and correct copy of the foregoing "Reply Comments of Verizon Wireless" was served by first-class U.S. mail, postage prepaid, on the party listed below:

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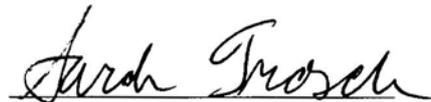
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A handwritten signature in cursive script, reading "Sarah Trose". The signature is written in black ink and is positioned to the right of the "Via E-Mail" text.