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May 21, 2009

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, DC 20554

Re: Ex Parte Communication – WT Docket 08-95 (Alltel/Verizon)

Dear Ms. Dortch:

On behalf of MetroPCS Communications, Inc. (“MetroPCS”), and pursuant to Section 1.1206 of the Commission’s Rules, 47 C.F.R. § 1.1206, attached for the Commission’s record in the above-referenced proceeding is a copy of a May 15, 2009 news article reporting on a conference call in which Mr. Lowell McAdam, Chief Executive Officer of Cellco Partnership d/b/a Verizon Wireless (“Verizon”), reported on Verizon’s plans for the deployment of Long Term Evolution (“LTE”) technology. Entitled “Verizon delays LTE timescales, publishes device rules,” the article reports that although a Verizon spokesman had stated two weeks before that “LTE roll-out would be all but complete by the end of 2013,” Mr. McAdam in his conference call “was more cautious, looking for [the] first fully commercial markets in the second half of next year and completion of national coverage in 2015.”¹

In addressing concerns raised by MetroPCS and other carriers that the merger of Verizon and Alltel would have anticompetitive effects in the automatic roaming market and therefore on the ability of regional and small carrier to compete in the retail market, the Commission conditioned its approval on, among other things, all carriers having the right to select either their ALLTEL or Verizon roaming

¹ *Verizon delays LTE timescales, publishes device rules*, Rethink Wireless Daily Newsletter, by Caroline Gabriel, published May 5, 2009, http://www.rethink-wireless.com/?article_id=1371.

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agreement to govern all traffic between the carrier and post-merger Verizon Wireless. As noted by Commissioner Tate in her concurring opinion:

Most notably, Verizon Wireless will honor the existing roaming agreements – whether contracted with them or Alltel – for four years. A number of parties, especially mid-sized, small and rural providers, expressed concern that there are too few roaming providers utilizing CDMA technology, and that the proposed merger would even further reduce this number. By maintaining roaming agreements for this longer period of time, it is more likely that Long Term Evolution (LTE) will be available from other providers – including AT&T, which does not offer CDMA service – when many of these roaming contracts expire. This will help ensure more competition in the provision of roaming service at that time.²

However, although the conditions were approved based on an understanding that LTE would be commercially available nationwide by 2013 and were crafted in an effort to preserve the competitive *status quo* until such time, which will permit additional roaming competition by eliminating current technology-based limitations, the Merger Order extended the condition to maintain the ALLTEL agreements only for a four-year period.³ On December 10, 2008, MetroPCS petitioned for reconsideration of the Merger Order on the ground, among other things, that the four-year condition did not take into account that the transition to LTE would likely take longer than four years and that the condition is therefore a “bridge to nowhere.”⁴ MetroPCS therefore asked the Commission to reconsider

² Memorandum Opinion and Order and Declaratory Ruling, WT Docket No. 08-95, FCC 08-258, at Statement of Commissioner Deborah Taylor Tate (released Nov. 10, 2008) (“Merger Order”).

³ Verizon is now disputing that the Commission’s Order required that the ALLTEL *agreements* be maintained for four years and instead claims that it is only required to maintain the ALLTEL *rates* for that period. For the reasons stated in MetroPCS’ *ex parte* letter dated May 12, 2009, in Leap’s *ex parte* submission filed on May 19, 2009, and a number of other filings in this docket, Verizon’s claims should be rejected. Either way, however, to meaningfully preserve competition as the Commission intended, whatever conditions apply should be in place long enough for a meaningful competitive alternative to become fully available.

⁴ MetroPCS Communications, Inc. and NTELOS Inc. Petition for Limited Reconsideration, WT Docket No. 08-95, at 6-18 (filed Dec. 10, 2008) (“Reconsideration Petition”).

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its Merger Order to apply a seven-year obligation – which would be more in line with the newly revised LTE roll-out schedule disclosed by Mr. McAdam.

One of the things that MetroPCS showed in support of its Petition is that even under the most optimistic of scenarios, Verizon and other carriers will only begin to roll out LTE in 2010 – already two years into the four year Merger Order requirement – and that it was clear that LTE will not be meaningfully deployed until substantially after the four-year extension of the ALLTEL agreements has ended in December 2012. Now, Verizon itself has revised its wildly optimistic and self-serving projection of LTE completion from 2013 to 2015 – coincidentally, precisely the seven-year time frame that MetroPCS' Reconsideration petition argued would be a reasonable expectation when Verizon was claiming a 2013 completion.⁵ And that is just Verizon's *most recent* estimate – there is no assurance that the 2015 projection will hold firm. Based on the industry's experience with the roll-out of EVDO technology, it likely will not hold firm, and actual deployment will take considerably longer.⁶

Moreover, the Merger Order condition will only act to preserve roaming competition (and therefore retail competition) if LTE is put in place by at least three national carriers – not just Verizon – throughout a substantial portion of their networks. Otherwise, LTE will not offer any meaningful alternatives to CDMA carriers who are captive to Verizon Wireless roaming. AT&T publicly stated at the Mobile World Congress 2009 that it will be deploying LTE in 2011, which is even one year later than Verizon.⁷ Accordingly, 2015 may not be long enough.

Accordingly, MetroPCS urges that the Commission promptly grant MetroPCS' Reconsideration Petition, that it extend the four-year roaming conditions adopted

⁵ Reconsideration Petition at 16.

⁶ *See id.* As noted by the attached Rethink Wireless Daily Newsletter article, “[t]his may not be the last revision of Verizon’s timescales, and the story is a familiar one from the days of the European 3G bubble. Launching prematurely with ill-tested equipment and a shortage of devices would be worse than delaying roll-out, and it is clear from the chipmakers’ plans that LTE products will not be available until well into 2010, and until 2011 they will be largely confined to single –mode gadgets or dongles. Even Qualcomm, ahead of the curve on dual-mode CDMA/LTE, does not expect a phone to be ready until late 2011.”

⁷ *See, e.g., AT&T Planning LTE for 2011*, <http://www.wmexperts.com/4g-atts-roadmap>.

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in the Merger Order to seven years and that, for the reasons set forth in MetroPCS' Reconsideration Petition and subsequent *ex parte* submissions, the Commission also promptly reject Verizon's attempt to eviscerate those conditions by making clear that the condition applies to *all* terms and conditions – not just the rates – of the ALLTEL roaming agreements.

Should any additional information be required with respect to this *ex parte* submission, please do not hesitate to contact me.

Very truly yours,

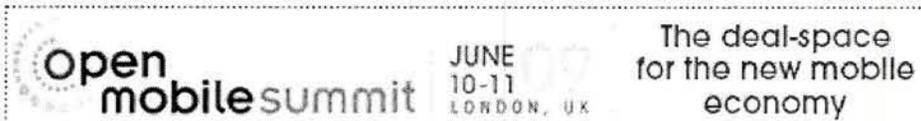
/s/ Jean L. Kiddoo

Jean L. Kiddoo
Counsel for MetroPCS
Communications, Inc.

Attachment

cc (by email): Acting Chairman Michael J. Copps
Commissioner Jonathan S. Adelstein
Commissioner Robert M. McDowell
Ms. Renée Roland Crittendon
Ms. Angela E. Giancarlo
Mr. Paul E. Murray

Rethink Wireless Daily Newsletter: 18th May 2009

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Verizon delays LTE timescales, publishes device rules

Published : 15/05/2009 by Caroline Gabriel

Wireless carriers really should learn a lesson from history - scoring huge publicity points by setting aggressive deadlines for rolling out a new technology usually backfires. So Verizon Wireless, almost inevitably, has already pushed back the date for commercial roll-out of LTE, which will now reach its phase one target of 20-30 markets in the second half of 2010, at least six months later than planned.

The US' largest cellco adopted the popular tactic of swamping controversial news in a welter of often tedious detail, on a conference call this week about its LTE roadmap. As well as a less ambitious timescale for phase one of the deployment - in the 700MHz band - Verizon also seemed to be taking a rather more flexible interpretation of 'open access', which is mandated in its 700MHz spectrum, than the FCC, and open campaigners like Google, might have hoped.

The conference call was conducted by wireless chief Lowell McAdam, who pulled back on LTE timescales as outlined less than a fortnight ago by CTO Tony Melone. Speaking at Ericsson's recent Capital Markets Day in Boston, Melone said LTE roll-out would be all but complete by the end of 2013 (though without specifying whether this would entail complete coverage). He promised "phase four trials" in 700MHz soon, followed by first commercial markets in the first half of 2010, and then "rapid deployment" in 2011 and 2012, in the 700MHz, 850MHz and 1.9GHz bands. McAdam was more cautious, looking for first fully commercial markets in the second half of next year, and completion of national coverage in 2015. The cellco may still have a commercial test market in action by year end, but will apparently not fulfil its original goal of having at least one territory live (though the company had already stressed that this would be for fixed access initially).

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McAdam said on the call: "I would say it is not a containment. It is really to start out slow, see what we need to do so we don't get ahead of ourselves in putting in capacity that we don't need."

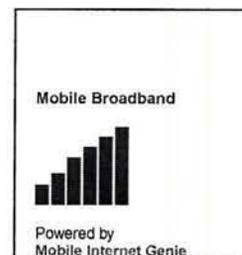
This may not be the last revision of Verizon's timescales, and the story is a familiar one from the days of the European 3G bubble. Launching prematurely with ill-tested equipment and a shortage of devices would be worse than delaying roll-out, and it is clear from the chipmakers' plans that LTE products will not be available until well into 2010, and until 2011 they will be largely confined to single-mode gadgets or dongles. Even Qualcomm, ahead of the curve on dual-mode CDMA/LTE, does not expect a phone to be ready until late 2011.

On the devices front, Verizon is seeking to maintain at least a measure of its legendary control over testing and certification of anything that gets onto its network - despite the open access rules on its 700MHz spectrum. Open access usually means that any device should be able to use a network rather than being locked into an operator, but cellcos do argue they must protect their networks, and their customers, by carrying out basic checks to ensure the products do not pose security risks or threaten to bring down the network. Verizon, famous for its rigorous testing of devices to ensure optimal performance on its CDMA systems, seems to be pushing the definition further. McAdam admitted the operator will be more restrictive on device use than AT&T even on LTE. He said users will be able to move their SIM cards to devices that were not bought through the carrier, but Verizon will still insist that the device is certified before it will work with a given SIM card. AT&T has already removed such restrictions on unlocked devices, even on HSPA.

There are other respects in which Verizon is going beyond the basic requirements of the LTE technology and standard, an approach familiar from CDMA. So it is embracing open access, but only to devices that meet its high standards, not just in security but other areas like power consumption. Most of the technical specifications it will impose on device makers are in line with those of the 3GPP and its Global Certification Forum, but there are some variations, notably in transmit output power and receive sensitivity (to improve range and interference mitigation). This is consistent with the operator's tradition of putting network coverage and reliability before a race to the latest, smallest handsets.

To get a device onto the Verizon LTE network, a vendor will need to support its three frequencies (700MHz, 850MHz and 1.9GHz) and in many cases, CDMA too. The peculiar combination of frequencies (only mirrored by MetroPCS) will mean any gadget manufacturer is essentially designing products purely for Verizon, which makes it easier for the operator to impose its requirements, though it could also keep its prices

Amsterdam



somewhat high in the early years.

In other details, Verizon said (unsurprisingly) that it would run SMS via an IP version based on its new IMS (IP Multimedia Subsystem). It could do voice in the same way but did not comment on the vexed issue of whether to handle voice mainly with VoIP, or with hand-off to CDMA. It said it was publishing its requirements well in advance to encourage developers to start designing innovative devices.

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