

# Comments of Rural Cellular Association on Petition of Corr Wireless

WC Docket 05-337

CC Docket 96-45

David LaFuria  
Steven Chernoff  
Lukas Nace Gutierrez & Sachs, LLP  
1650 Tysons Blvd. Suite 1500  
McLean, VA 22102  
(703) 584-8678

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# Description of the VZW/Alltel Merger Order and the Interim Cap Order

- The *Interim Cap Order* established a state-by-state cap consisting of the amount of CETC support each state was eligible to receive in March 2008. These statewide amounts were published in December 2008, and carriers were given until December 31, 2008, to file corrections in order to “provide certainty regarding the amount of high-cost support available to competitive ETCs under the cap in each state[.]”
- The *VZW/Alltel Merger Order*, released in November of 2008, included a “voluntary commitment” from VZW to step down its support 20% per year for five years, beginning in 2009.

# USAC's Implementation of the Interim Cap Order

- Under the *Interim Cap Order*, support is distributed to CETCs according to their market share, subject to the cap. That is, all CETCs in the state compete for available support. When a carrier relinquishes ETC status, “head room” is created which allows other eligible CETCs to increase support incrementally until total CETC support in the state reach the March 2008 capped amount.
- USAC has announced that it is now reducing the March 2008 cap amount by 20% per year over five years for each state in which VZW has relinquished ETC status or voluntarily reduced support.
- For example, in a state with a \$10 million cap, if VZW relinquishes ETC status that provided \$3 million in annual support, then the amount of support shared by other CETCs in the state would be reduced by \$600,000 (20% of \$3 million) in the first year.

## USAC's Implementation of the Interim Cap Order (cont'd)

- There is nothing in either the *Interim Cap Order* or the *VZW/Alltel Merger Order* legally authorizing any reduction of the March 2008 cap amount.
- Six months after the beginning of the step-down, despite numerous inquiries, USAC still has not disclosed the amount by which it has reduced the statewide cap amounts.
- This uncertainty violates the statutory requirement that support be “predictable.”

# The VZW/Alltel Merger Order Provides No Legal Basis to Change How Support is Distributed Under the Interim Cap Order

- VZW’s commitment was a private agreement, made with the FCC chairman during the Sunshine Period, without any public notice or input. VZW’s “understanding” of its private agreement is not law.
- There is nothing in the *VZW/Alltel Merger Order* which affects the operation of the interim cap as set forth in the *Interim Cap Order*. Any substantive change to the *Interim Cap Order* must be done by the FCC, pursuant to an APA rulemaking proceeding.
- USAC is not authorized to reduce the amounts established in the *Interim Cap Order*. RCA’s recently–filed comments discuss this extensively.
- To date, the private agreement between the former chairman and VZW provides the sole basis for USAC’s reducing support.

# Remedy

- While the Corr Wireless Request for Review remains pending, instruct USAC to provide support to CETCs based on the cap amounts established in the *2008 Interim Cap Order*.
- Grant the Corr Wireless Request for Review and instruct USAC to retain the existing March 2008 statewide cap amounts and provide support as established in the *2008 Interim Cap Order* until universal service reform is enacted.