

# LATHAM & WATKINS<sup>LLP</sup>

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September 1, 2009

## VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, SW  
Room TW-B204  
Washington, DC 20554

*Re:* Cellco Partnership d/b/a Verizon Wireless and Atlantis Holdings LLC (“*Verizon/ALLTEL*”), WT Docket No. 08-95; Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers, WT Docket No. 05-265; and Fourteenth Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services; *EX PARTE (CORRECTED)*

Dear Ms. Dortch:

This letter is to advise you that on August 26, 2009, on behalf of Leap Wireless International, Inc. and Cricket Communications, Inc., Pantelis Michalopoulos of Steptoe & Johnson LLP, Barry Blonien of Latham & Watkins LLP and the undersigned met with Federal Communications Commission General Counsel Austin Schlick, along with Jim Bird, Neil Dellar, Diane Griffin Holland, and Joel Rabinovitz of the Office of General Counsel. In the meeting, the Leap representatives responded to various positions set forth in the filings of Verizon Wireless in the above-referenced dockets, specifically emphasizing the need for the Commission to move forward to clarify or reconsider the *Verizon-ALLTEL Order* for the reasons set forth in Leap’s filings, including its May 19, 2009 *Ex Parte* Letter.<sup>1</sup>

In particular, Leap noted that:

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<sup>1</sup> Letter to Marlene H. Dortch, Secretary, FCC from James H. Barker, Counsel for Leap/Cricket (May 19, 2009).

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- the intent of the Commission’s adoption of the agreement election condition was to compensate for the elimination of a major wireless roaming partner that would have otherwise continued to expand into Verizon’s territory;<sup>2</sup>
- the *Verizon-ALLTEL Order* is best read as keeping all roaming conditions in force for a minimum of four years, since the contrary reading propounded by Verizon would permit Verizon to immediately terminate and modify a number of Alltel agreements – a result that would nullify the condition and that was plainly not intended by the Commission, as evidenced by a majority of the Commissioners’ separate statements, among other items;
- even assuming the *Verizon-ALLTEL Order* is ambiguous as to whether the roaming conditions apart from the rate condition will stay in force for four years, the Order is at most silent on the point. Thus, clarification or limited reconsideration to make the four-year term explicit for this condition would be wholly consistent with the intent of the Commission in accepting Verizon’s commitments;
- Verizon’s efforts to minimize the requested clarification/reconsideration as a request for a Leap-specific “windfall” are fatally undermined by the facts, including the number of other carriers that have urged Commission clarification or reconsideration of the election commitment, and Verizon’s own representations on the record; and

Please contact the undersigned should you have any questions.

Very truly yours,

- /s/ -

James H. Barker

Counsel for Leap Wireless International, Inc.

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<sup>2</sup> See, e.g., *Verizon-ALLTEL Order* at ¶ 87.