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*NOT ADMITTED IN VA

April 6, 2012

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-B204
Washington, D.C. 20554

**Re: Written Ex Parte Presentation
Mobility Fund Phase I Auction
AU Docket No. 12-25**

Dear Madam Secretary:

On behalf of Union Cellular Telephone Company d/b/a Union Wireless (“Union Wireless” or the “Company”), and pursuant to Sections 1.1200, *et seq.*, of the Commission’s Rules,¹ we write in response to the “Reply Comments” filed by Verizon Wireless (“Verizon”) on March 26, 2012, in the above-referenced docket.

Union Wireless has been providing service since 1990, and currently operates facilities covering more than 197,500 square miles of territory, with 353 permanent cellular sites throughout Wyoming, northwestern Colorado, parts of southeastern Idaho, and parts of Utah. The Company currently deploys 17 cells on wheels (“COWs”) to meet rapidly emerging consumer demand, to assist when there is a natural disaster, and to address increased mobile telecommunications traffic at special events.² Union Wireless is currently conducting trial tests for 3G service,

¹ 47 C.F.R. §§ 1.1200 *et seq.*

² Twelve of these COWs are scheduled to be replaced by permanent cellular sites and redeployed to new locations. Two of the COWs are “Green COWs,” *i.e.*, stand-alone solar or wind powered units. Union Wireless also has four additional Green COWs ready for deployment.

and plans a limited commercial deployment of 3G service as soon as conditions permit. The Company has been praised for its efforts in “building up programs in rural areas of [Wyoming] that other telecommunications and wireless companies have not seen fit to serve[.]”³ and for its “construction program [in Wyoming that] appears to bring service not only to urban areas, but also to rural—and sometimes isolated—areas, all of which can have a material positive effect on economic development in the state.”⁴

Union Wireless is currently evaluating whether to participate in the Mobility Fund Phase I reverse auction, in order to compete for Mobility Fund support as a means of augmenting the Company’s deployment of mobile broadband services in high-cost areas located in Wyoming.⁵

The February 2, 2012, Public Notice⁶ issued by the Wireless Telecommunications and Wireline Competition Bureaus (the “Bureaus”) included a map of the United States, showing areas that the Bureaus proposed to designate as eligible for Phase I Mobility Fund support. The Bureaus invited comment on the map, asking interested parties to provide evidence if they believe coverage exists in areas shown on the map as uncovered, or if they believe no coverage exists in areas shown as covered.⁷

Verizon chose not to participate in the initial comment round, and instead filed reply comments containing its challenge to the Bureaus’ list of potentially eligible areas throughout the country.⁸ Verizon suggested that the Bureaus could coordinate with Verizon to screen out from the list areas that are already served, since, according to Verizon, these areas are ineligible for Phase I Mobility Fund support in the September 27, 2012, reverse auction.⁹ Verizon noted that

³ *Application of Union Telephone Company for Clarification of Its Eligible Telecommunications Carrier Designation Area*, Docket No. 62006-19-RA-10 (Record No. 12465), Memorandum Opinion, Findings and Order (Wyoming PSC Dec. 20, 2011), at para. 34.

⁴ *Id.*

⁵ Union Wireless would also consider participating in the Mobility Fund Phase I reverse auction to compete for support relating to areas it serves in Colorado, if favorable and timely action is taken on a pending petition for designation as an eligible telecommunications carrier filed by Union Wireless in 2009.

⁶ *Mobility Fund Phase I Auction Scheduled for September 27, 2012, Comment Sought on Competitive Bidding Procedures for Auction 901 and Certain Program Requirements*, AU Docket No. 12-25, Public Notice, DA 12-121 (rel. Feb. 2, 2012) (“*February 2 Public Notice*”). A summary of the Public Notice was published in the Federal Register at 77 Fed. Reg. 7152 (Feb. 10, 2012). See *Mobility Fund Phase I Auction, Limited Extension of Deadlines for Comments and Reply Comments of Census Block Eligibility Challenges*, AU Docket No. 12-25, Public Notice, DA 12-236 (rel. Feb. 16, 2012) (extending the deadlines for filing comments and reply comments on census block eligibility challenges to March 16 and March 26, respectively).

⁷ *February 2 Public Notice* at para. 19.

⁸ Verizon Reply Comments, AU Docket No. 12-25 (filed Mar. 26, 2012) (“*Verizon Reply*”).

⁹ *Id.* at 2 (stating that “[b]ased on the number of census blocks on the Commission’s list of potentially eligible areas where Verizon and/or other wireless carriers already offer 3G or better service, Verizon

its network coverage employees reviewed the Bureaus' list,¹⁰ and, based on this review, Verizon attached 88 pages to its reply comments containing a list of approximately 23,000 census block numbers.¹¹ Verizon's list is not organized by political jurisdiction designation, such as by state or county.

The submission made by Verizon provides insufficient information and accessibility to data for the public to conduct a meaningful evaluation of the coverage alleged. For example, all of the materials filed by Verizon are in Adobe PDF format, suitable for filing via the Commission's Electronic Comment Filing System. Union Wireless agrees with U.S. Cellular that "[i]t would be unreasonable to expect public commenters to manually type in thousands of 14-digit census block numbers, needed to just begin investigation of whether coverage exists in a particular area."¹² In addition, although Verizon claims to be providing 3G or better service in each of the approximately 23,000 census blocks it has submitted to the Bureaus, it provides no evidence regarding whether it meets the Commission's standard for coverage. The standard is whether there is coverage at the centroid point of each census block.¹³ Verizon has failed to address whether the coverage it claims to be providing meets this test.

In Union Wireless's view, Verizon's coverage claims should be treated with considerable skepticism. Union Wireless executives responsible for engineering, customer care, and marketing in Wyoming are familiar with Verizon's 3G services in the state, and their experience is that, notwithstanding the fact that Verizon has integrated an Evolution-Data Optimized ("EVDO") platform throughout its wireless network in Wyoming, various factors contribute to the likelihood that the network does not consistently provide 3G speeds to some of Verizon's customers.¹⁴

suggests that the Bureau carefully analyze the data and coordinate with providers to screen out areas that are already served prior to the funding auction this fall").

¹⁰ *Id.*

¹¹ *Id.* at 1 & Attach. A.

¹² United States Cellular Corporation ("U.S. Cellular") Reply Comments, AU Docket No. 12-25 (filed Mar. 26, 2012) ("U.S. Cellular Reply Comments"), at 2.

¹³ *Connect America Fund, et al.*, WC Docket No. 10-90, *et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, 2011 WL 5844975 (rel. Nov. 18, 2011), 76 Fed. Reg. 73830 (Nov. 29, 2011), 76 Fed. Reg. 78384 (Dec. 16, 2011), 76 Fed. Reg. 81562 (Dec. 28, 2011), *recon.*, FCC 11-189 (rel. Dec. 23, 2011), *further recon. pending*, *Connect America Fund et al.*, 77 Fed. Reg. 3635 (Jan. 25, 2012) (providing public notice of petitions for reconsideration), *petitions for review pending*, *Direct Commc'ns Cedar Valley v. FCC*, No. 11-9581 (10th Cir. filed Dec. 18, 2011) (and consolidated cases), at para. 344. See *February 2 Public Notice* at para. 15 (explaining that "Auction 901 will offer Mobility Fund Phase I support in eligible unserved census blocks, i.e., those census blocks from the 2010 Census with road miles in particular road categories and where, based on the American Roamer data most recently available for this purpose, there is no coverage by 3G or better services at the centroid") (footnote omitted).

¹⁴ See *February 2 Public Notice* at para. 15 (noting that "the Commission [has] decided to target Mobility Fund Phase I support to census blocks without 3G or better service").

One reason for this is that coverage that Verizon attempts to provide from some of its cellular sites can extend to ranges of up to 20 miles from the sites, and the configuration and capabilities of Verizon's network do not enable EVDO to function at these distances, forcing the transmission of traffic through use of the CDMA2000 1X (also known as 1xRTT) wireless air interface standard, which is not designed to provide 3G speeds. Another reason, according to Union Wireless's engineers, is that, since EVDO is a completely separate interface from Verizon's CDMA2000 1X interface, EVDO requires its own backhaul facilities, and various backhaul constraints faced by Verizon result in situations in which there is not sufficient T1 capacity to enable the transmission of traffic at 3G speeds via the EVDO interface.

These practical on-the-ground problems associated with the operation of Verizon's wireless network in Wyoming highlight the deficiencies in Verizon's filing, since Verizon offers no evidence to substantiate its assertion that it is delivering 3G or better service in each of the approximately 23,000 census blocks it lists in its filing. The Bureaus and interested parties should have an opportunity to determine whether the limitations of Verizon's network in Wyoming are replicated in other areas included in Verizon's list of allegedly covered census blocks.

The deficiencies in Verizon's filing outlined in the preceding paragraphs are compounded by the fact that Verizon chose to wait until the reply round to advance its challenges to the Bureaus' list of potentially eligible census blocks. Verizon's expansive claims of widespread 3G or better wireless service coverage have significant consequences, and therefore warrant close scrutiny by the Commission as well as a meaningful opportunity for review by interested parties. Consumers will be the beneficiaries of this scrutiny and review. Union Wireless agrees with SBI that "[o]ver-projection of current and committed future coverage (and consequent under-support)" could relegate rural areas "to no service, or poor service quality, for the indefinite future."¹⁵

Verizon's decision to wait until the reply round before raising its challenge to the Bureaus' list of potentially eligible census blocks is particularly problematic because of Verizon's attempt to *eliminate census blocks from the eligibility list*. Given the potential harm to consumers associated with the over-projection of current coverage, interested parties should have full opportunity to review and analyze the accuracy of Verizon's coverage claims. By raising these claims in the reply round, Verizon has significantly jeopardized this opportunity.

U.S. Cellular indicated that it "understand[s] that the Commission has informally requested commenting parties to make lists of census block numbers available to the Bureaus in Microsoft Excel format so that data can be automatically uploaded into a program to facilitate analysis."¹⁶ Union Wireless agrees with U.S. Cellular that, "[u]nless the public has access to si-

¹⁵ Smith Bagley, Inc. ("SBI") Reply Comments, AU Docket No. 12-25 (filed Mar. 26, 2012), at 3-4 (SBI was addressing wireless service in and around the territory of Navajo Nation, but the point made by SBI applies to any rural areas deprived of Mobility Fund Phase I support as a result of an over-estimation of presently served areas).

¹⁶ U.S. Cellular Reply Comments at 2.

milarly formatted data, there will be no practical means of gaining an understanding of the data provided and, by extension, no meaningful opportunity to provide comment.”¹⁷

The bottom line is that Verizon, in attempting to advance claims regarding the scope and extent of its 3G or better wireless coverage in Wyoming and other areas across the Nation, must be held to a higher standard than simply waiting until the reply round in this proceeding to submit a list of census blocks into the record, in a format that makes it impracticable for any interested party to test the validity of Verizon’s claims. Verizon itself recognizes the inadequacy of its filing, suggesting in its reply comments that, “[i]f additional data analysis would be useful, we are willing to work with Bureau staff.”¹⁸

Verizon’s offer to work with the staff of the Bureaus, in order to examine the accuracy of Verizon’s coverage claims, simply is not sufficient. The *February 2 Public Notice* makes clear that any party claiming that census blocks included in the Bureaus’ revised list should not be eligible for support should “provide supporting evidence.”¹⁹ Verizon has ignored this instruction by failing to provide any evidence whatsoever concerning its claim that approximately 23,000 census blocks should be “screen[ed] out” because Verizon is already providing 3G or better service in the areas involved.²⁰ Verizon apparently did not conduct any drive tests, for example, as a means of substantiating its claims, nor did it submit drive test data, maps, or any other evidence. Further, Verizon did not provide any explanation of the methodology used by its network coverage employees in identifying census blocks in which Verizon now claims to be providing service.

Union Wireless is aware of the indication that the Commission does not intend for the initial comment filings in response to the *February 2 Public Notice* to be the last word regarding whether an area is covered by 3G or 4G service.²¹ The Company agrees with U.S. Cellular that this is fair enough.²² But, as U.S. Cellular has explained, the Commission must insist on a level of evidence, in accessible formats, that is sufficient for interested parties to analyze the data in a meaningful way. Doing so is necessary “in order to pass muster under the Administrative Procedures Act and meet the public’s need for a transparent process that best serves rural citizens who expect to receive improved mobile wireless communications service”²³

Union Wireless therefore urges the Bureaus to require Verizon to provide evidence to substantiate its coverage claims, to ensure that this evidence is submitted in a readily-accessible

¹⁷ *Id.*

¹⁸ Verizon Reply at 2.

¹⁹ *February 2 Public Notice* at para. 19.

²⁰ Verizon Reply Comments at 1-2.

²¹ *See* U.S. Cellular Reply Comments at 3.

²² *Id.*

²³ *Id.*

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format sufficient to ensure an opportunity for review by interested parties, and to subject Verizon's claims to close scrutiny.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David A. LaFuria".

David A. LaFuria
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cc: Christopher M. Miller, Esq.
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