

REDACTED - FOR PUBLIC INSPECTION

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April 30, 2012

**Written Ex Parte: Via Electronic Filing**

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

RE: Application of Cellco Partnership d/b/a Verizon Wireless and SpectrumCo, LLC for Consent to Assign Licenses and Application of Cellco Partnership d/b/a Verizon Wireless and Cox TMI Wireless, LLC for Consent to Assign Licenses, WT Docket No. 12-4

Dear Ms. Dortch:

I write on behalf of Level 3 Communications, LLC (“Level 3”). In its Reply Comments in this Docket, Level 3 expressed concern that the provisions of the VZW Agent Agreements and the Reseller Agreements would restrict competition in the markets for the provision of wireless backhaul and special access, and that these restrictions would compound the market restrictions that Level 3 have already documented in the record of WC Docket No. 05-25.<sup>1</sup> Subject to the protective order, the undersigned counsel has now reviewed the documents produced by Verizon Wireless in response to the Staff’s data requests. This review only increases the concerns previously expressed by Level 3.

To begin, the Verizon Wireless documents show that Verizon Wireless  
**[Begin Confidential]** 

<sup>1</sup> Reply Comments of Level 3 Communications, LLC, March 26, 2012, at 7-9.

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[REDACTED]<sup>2</sup>  
[REDACTED]  
[REDACTED] [End Confidential]

In addition, the Verizon Wireless documents show that [Begin Confidential] [REDACTED]  
[REDACTED] [End

Confidential] As demonstrated in the record of WC Docket No. 05-25, the special access market is already suffering from substantial constraints on competition. Verizon documents produced in response to the Staff's data requests show that [Begin Confidential]

[REDACTED]  
[REDACTED]<sup>3</sup> [End Confidential]

This shows a number of things about the market for wireless backhaul. [Begin Confidential] [REDACTED]  
[REDACTED]

[REDACTED]

<sup>2</sup> [REDACTED]

<sup>3</sup> [REDACTED]

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<sup>4</sup> [Redacted] [End Confidential] The FCC prescribed an 11.25% return on invested capital more than 20 years ago, when interest rates were multiples of what they are today, and recently determined that it was necessary to represcribe that rate “consistent with the Act and today’s financial conditions.”<sup>5</sup> In that context, [Begin Confidential] [Redacted]

[End Confidential] Over and above the restraints on competition in the special access market that have already been shown in WC Docket 05-25, the backhaul market should not be subjected to additional constraints on competition, such as the ones in § 3.9 of the VZW Agent Agreement and § 6.21 of the Reseller Agreements for Time Warner Cable and the other cable companies.

Sincerely,

*/s/ electronically signed*

Eric J. Branfman

<sup>4</sup> [Redacted]

<sup>5</sup> Report and Order and Further Notice of Proposed Rulemaking, In the Matter of Connect America Fund *et al.*, WC Docket 10-90 *et al.*, November 18, 2011, ¶ 638.