

**Marguerite McLean**

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**Sent:** Friday, October 29, 2010 4:55 PM  
**To:** Filings@psc.state.fl.us  
**Subject:** Docket No. 100386-TP  
**Attachments:** x.pdf

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The Docket No. is 100386-TP - Petition of Cellco Partnership and its Subsidiaries and Affiliates to Amend Eligible Telecommunications Carrier Designation in the State of Florida

This is being filed on behalf of T-Mobile South, LLC

Total Number of Pages is \_\_30\_\_

T-Mobile South, LLC's Comments

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October 29, 2010

**BY ELECTRONIC FILING**

Ms. Ann Cole, Director  
Commission Clerk  
Room 110, Easley Building  
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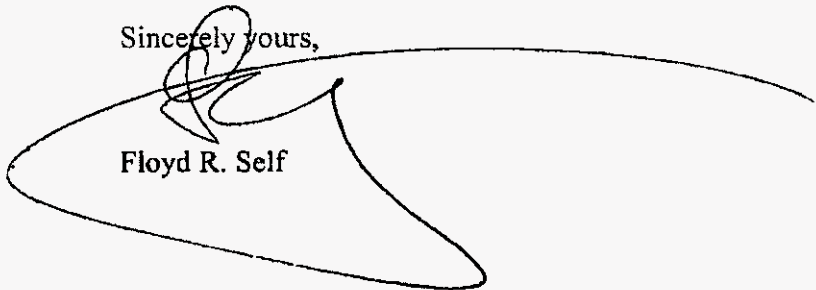
Re: Docket No. 100386-TP

Dear Ms. Cole:

Enclosed for filing on behalf of T-Mobile South, LLC is an electronic copy of T-Mobile South, LLC's Comments in the above referenced docket.

Thank you for your assistance with this filing.

Sincerely yours,



Floyd R. Self

FRS/amb  
Enclosure  
cc: Michelle Thomas, Esq.

DOCUMENTAL SERVICES

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9029 OCT 29 2010

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Celco Partnership and its  
Subsidiaries and Affiliates to Amend  
Eligible Telecommunications Carrier  
Designation in the State of Florida

Docket No. 100386-TP

Filed October 29, 2010

T-MOBILE SOUTH, LLC COMMENTS

T-Mobile South, LLC ("*T-Mobile*"), pursuant to sections 120.80(13)(d), 364.011, and 364.012, Florida Statutes, and 47 U.S.C. §214.(E)(2), hereby submits its comments to the Florida Public Service Commission ("Commission") in connection with the Verizon Wireless ("*Verizon Wireless*") Petition to Amend Eligible Telecommunication Carrier ("ETC") Designation in the State of Florida (the "*Petition*").<sup>1</sup> Because federal law, as implemented by this Commission, requires this Commission to make a public interest determination with respect to the granting of any ETC designation, T-Mobile is providing these comments so that the Commission may conduct the necessary public interest determination. T-Mobile, by submitting its comments is not seeking to intervene as a party of record or to formally object to the requested relief, is only seeking to be a non-party, "Interested Person" in these proceedings and for purposes of the public record. This Commission has a strong and clear record in enforcing the universal service policies of Florida and federal law through its diligent review of ETCs and applicant ETCs in order to ensure that universal service support funds are and will be used as intended and in undertaking a careful public interest evaluation for each ETC application. T-Mobile's participation as an Interested Person is appropriate in this matter as it is the best means of fully

<sup>1</sup> See *In Re Petition of Celco Partnership and its Subsidiaries and Affiliates to Amend Eligible Telecommunications Carrier Designation In the State of Florida*, dated August 26, 2010.

informing the Commission in an open and transparent manner regarding the pending Petition so as to assist the Commission in evaluating whether the Petition is in the public interest.

### BACKGROUND

The Interested Person for purposes of the public record is T-Mobile South, LLC, a facilities-based wireless telecommunications carrier in Florida serving mobile telephone and advanced broadband needs of consumers. T-Mobile uses radio licenses issued by the Federal Communications Commission (“FCC”) to provide Commercial Mobile Radio Service (“CMRS”) throughout the state of Florida and in its requested Eligible Telecommunications Carrier (“ETC”) designated service area. T-Mobile has recently been designated an ETC by this Commission to serve certain identified rural and non-rural wire centers in the state of Florida.<sup>2</sup> T-Mobile’s principal place of business is 12920 SE 38 Street, Bellevue, WA 98006.

Pleadings, orders, notices and other papers filed or served in this matter should be provided to:

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As a result of its recent acquisitions and mergers, Verizon Wireless has recently acquired Alltel Communications LLC (“Alltel”) entities, and more importantly, the ETC designation

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<sup>2</sup> Docket No. 090507-TP, Order No. PSC-10-0475-PAA-TP (July 28, 2010) and Order No. PSC-10-0536-CO-TP (Aug. 20, 2010) (consummating order); Docket No. 090510 PSC-10-0478-PAA-TP and PSC-10-0535-CO-TP (Aug. 20, 2010) (consummating order); Docket No. 100383-TP, Order PSC-10-0597 (Aug. 29, 2010) and Order No. 10-0636-CO-TP (Oct. 25, 2010) (consummating order) (hereinafter, the “*T-Mobile ETC Orders*”).

previously granted by the FCC to Alltel.<sup>3</sup> Through the current Petition, Verizon Wireless now seeks to amend the Alltel ETC designation for the State of Florida, purportedly to ease its administrative burdens in light of the consolidation of the Alltel operations within those of Verizon Wireless.<sup>4</sup>

T-Mobile understands and appreciates the importance of High-Cost Universal Service Funds to the State of Florida in order to ensure quality telecommunication and information service options to all of its residents. T-Mobile does not take a position on whether Alltel's receipt of High Cost Universal Service funds (the "*High-Cost Funds*" or "*High-Cost Support*") has facilitated network build-out in areas of Florida or whether Verizon Wireless is currently or could not in the future meet the requirements for ETC designation if the Petition were to be granted. T-Mobile simply believes that the Verizon Wireless Petition should not be viewed in a vacuum, but should be considered in the context of the competitive ETC ("CETC") interim cap on the receipt of High-Cost Funds, Verizon Wireless' voluntary commitment at the federal level to phase-out its receipt of such funds over a five year period, and the FCC's recent pronouncement regarding the use of the Verizon Wireless phased-out High-Cost Support. In light of these broader issues, the resolution of Verizon Wireless' Petition will have a *significant* impact on the citizens of the State of Florida.

Although Verizon Wireless seeks to characterize its Petition as a simple amendment that does not seek to expand the designated areas previously granted by the FCC, the practical reality of granting the Petition is more significant. The reality is that granting the Petition, in its current form, will allow Verizon Wireless to "officially" add its "legacy" Verizon Wireless customer

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<sup>3</sup> Federal-State Joint Board on Universal Service, Alltel Communications, Inc. Petitions for Designation as an Eligible Telecommunications Carrier in Alabama, Florida, Georgia, North Carolina, and Virginia, 19 FCC Rcd 20496 (Wireline Comp. Bur. 2004) ("FCC Designation Order").

<sup>4</sup> Order No. PSC-05-0824-FOF-TL, issued August 15, 2005, in Docket No. 010977-TL and Order No. PSC-07-0288, issued April 3, 2007, in Docket Nos. 060581-TP and 060582-TP.

base to the line counts that it acquired from Alltel as result of the mergers. Verizon Wireless, not previously designated as an ETC in Florida, would then be allowed to “bootstrap” its “legacy” Verizon Wireless customer base to the Alltel designation, resulting in a significant increase in its eligible line count (and thereby, increase its High-Cost support) without adding a single customer.

Verizon Wireless is on a current track to give-back all of its universal service funds pursuant to an order of the FCC – 40 percent of which will leave the state of Florida by December 2010, and 20 percent each year thereafter until 2013 when consumers of Florida will no longer benefit from this funding.<sup>5</sup> This outcome will not only result in a significant decrease in support to all other CETCs in Florida, but could also discourage other carriers from seeking ETC status and thus investing in Florida. This situation is already somewhat precarious since Florida is a net contributor to the fund and has available to its citizens a smaller fund than its population requires.

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<sup>5</sup> *Applications of Cellco Partnership d/b/a Verizon Wireless and Atlantis Holdings LLC for Consent and Transfer of Control of Licenses, Authorizations and Spectrum Manager and De Facto Transfer Leasing Arrangements*, WT Docket No. 08-95, Memorandum Opinion and Order and Declaratory Ruling, 23 FCC Red 17 (2008) (the “*Verizon Merger Order*”).

## DISCUSSION

The reality of Verizon Wireless' recent acquisition of Alltel's ETC designations (among other entities with similar designation across the country) and the corresponding impact on individual states and other CETCs is now being discussed and debated at the federal level – the outcome of which is critical to Florida's continued receipt of High-Cost Support for investment in the state of Florida.<sup>6</sup> Now, through its Petition, Verizon Wireless not only seeks to amend the Alltel CETC designation in non-rural areas of the state, but also to expand its position in the CETC market in Florida by rolling its legacy Verizon Wireless customer base into its acquired CETC designation. The Commission should therefore proceed with caution in reviewing Verizon Wireless' Petition, taking into consideration the impact on consumers in Florida.

### **I. Background**

#### **A. The Interim Cap.**

On May 1, 2008 the FCC released an Order capping the amount of High-Cost Funds available to CETCs in each state ("CETC Cap").<sup>7</sup> Specifically, the FCC capped the amount of High-Cost support that CETCs in each state may receive at the annualized level of support in that state for the month of March 2008.<sup>8</sup> For example, if in March of 2008 the CETCs in Florida were eligible for a total of approximately \$18 Million dollars, the total amount of high-cost support available to the CETCs going forward on an annual basis is capped at \$18 Million. CETCs share in the \$18 Million capped amount of support on a pro-rata basis according to line count submissions.

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<sup>6</sup> See generally *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Order and Notice of Proposed Rulemaking, FCC 10-155 (rel. Sept. 3, 2010) ("*Corr Wireless Order*"), recon. pending.

<sup>7</sup> *High-Cost Universal Service Support*, Order. 23 FCC Red 8834 (2008) ("*the Interim Cap Order*"), *aff'd*, *Rural Cellular Ass'n v. FCC*, 588 F.3d 1095 (D.C. Cir. 2009).

<sup>8</sup> *Id* at 8850.

It is important to note that the cap is administered at the state level rather than a national level. Such a move was an acknowledgment of the fact the states are charged with granting ETC applications and are in a better position to determine the best use of funds within their state.<sup>9</sup> Therefore, this Commission should take note that Verizon Wireless now receives a significant amount of the capped High-Cost Support available in Florida due to its acquisition of Alltel.

**B. Verizon's Voluntary Merger Condition.**

Through various acquisitions in 2008 and 2009, Verizon obtained the ETC Designations of Alltel Communications, LLC ("*Alltel*") among others. In connection with the FCC's approval of the Alltel acquisition, Verizon agreed to a specific merger condition that phases-out its receipt of High-Cost Support in equal 20% increments during a five-year period.<sup>10</sup>

In making the voluntary commitment to phase-out its receipt of High-Cost Support, Verizon Wireless stated its' "understanding that the reduction in its receipt of high-cost support would not "result in increase in high-cost payments to other CETCs."<sup>11</sup> The FCC, in approving the Alltel merger, codified Verizon Wireless' commitment to phase-out its receipt of High-Cost Support, but specifically declined to articulate and incorporate into the *Verizon Merger Order* Verizon Wireless' understanding that the phased-out High-Cost Support would then not be available for other CETCs within the state.

Based upon the language of the *Interim Cap Order* and the fact that the calculation of capped High-Cost Support was made at the state level, most states and CETCs believed that the yearly reduction of support to Verizon Wireless did not lower the capped amount of state funds, but instead remained available within the state for receipt and investment by the remaining or

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<sup>9</sup> *Id.*

<sup>10</sup> See *Verizon Merger Order* at ¶ 196.

<sup>11</sup> *Ex Parte* Letter from John T. Scott, III, Vice President and Deputy General Counsel Regulatory Law, Verizon Wireless, to Marlene H. Dortch, Secretary, FCC (Nov. 3, 2008).



newly designated ETCs; however, the FCC has recently ruled otherwise, a move that is now hotly contested.<sup>12</sup>

### C. The Corr Wireless Order

Corr Wireless asked the FCC to clarify and declare that Verizon Wireless' phased-out High-Cost Support remain available within the state and redistributed to other CETCs for investments.<sup>13</sup> In the *Corr Wireless Order*, the FCC rejected the request that any funds by Verizon Wireless relinquished as a result of its voluntary commitment to phase-out High-Cost Support should remain within the state and available for use and investment by other CETCs in the state.<sup>14</sup> According to the FCC, the phased-out High-Cost Support should be held in reserve and ultimately be used for other programs, including programs contemplated but not yet adopted under the FCC's National Broadband Plan.<sup>15</sup>

Several parties have now submitted filings or commenced proceedings arguing such a declaration by the FCC is invalid for numerous reasons.<sup>16</sup> Even some state commissions such as the Public Utility Commission of Oregon have expressed concerns to the FCC on the implications of the *Corr Wireless Order* and Verizon's activities in its phasing-down of High-Cost Support.<sup>17</sup> In any event, such a determination by the FCC is especially important to the State of Florida in light of fact that Verizon Wireless currently receives a significant percentage

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<sup>12</sup> See generally *Corr Wireless Order*; but see *In the Matter High-Cost Universal Service Support, Federal-State Joint Board on Universal Service, Request for Review of Decision of Universal Service Administrator by Corr Wireless Communications, LLC*, Joint Petition For Reconsideration (Oct. 4, 2010) ("*Rural Wireless Companies' Joint Petition*"); see also Comments of Rural Cellular Association, *In the Matter High-Cost Universal Service Support, Federal-State Joint Board on Universal Service, Request for Review of Decision of Universal Service Administrator by Corr Wireless Communications, LLC* (Oct. 7, 2010) (supporting the *Rural Wireless Companies' Joint Petition*).

<sup>13</sup> Request for Review by Corr Wireless Communications, LLC, of Decision of Universal Service Administrator, CC Docket No. 05-337 (filed March 11, 2009) ("*Corr Wireless Appeal*"), at page 6.

<sup>14</sup> See *id.* at ¶ 9; see also *infra* note 16 (discussing Sprint's relinquishment of High Cost Support).

<sup>15</sup> See *id.* at ¶ 10.

<sup>16</sup> See *supra* note 8.

<sup>17</sup> See Reply Comments Of the Public Utility Commission of Oregon, *In the Matter of Corr Wireless Communications, LLC, For a Review of a Competitive Eligible Telecommunications Carrier High-Cost Support Decision of the Universal Service Administrative Company*, WC Docket No. 05-337, dated May 26, 2009.

of the capped High-Cost Support available in the state. If the FCC determination on the transfer of Verizon Wireless' phased-out support stands, the State of Florida will lose a significant amount of the High-Cost Support available for investments within the state by 2013.<sup>18</sup> Florida consumers will lose corresponding percentages of this funding by December 2010.<sup>19</sup>

In order to protect against the loss of High-Cost Support for investment within the state, the Commission must understand the impact of the federal proceedings and must determine if there is any action it should take to avert the loss of such crucial investment dollars. The loss of a significant amount of support available due to Verizon Wireless' commitment to phase-out all of its support will discourage any further investment in the state from other CETCs. Further, Verizon Wireless' phase-down in High Cost Support, and its current request to increase the funding by including Verizon Wireless "legacy" subscribers, will most assuredly affect its ability to fulfill its prior commitment to the state and should be analyzed and questioned in connection with impact to Florida consumers.

#### **D. The Current Verizon Wireless Petition**

According to Verizon Wireless, since the operations of Alltel have now been absorbed within Verizon Wireless, it now makes sense to also amend the ETC designations as well. Verizon Wireless characterizes the move as administrative in nature with no real negative impact to the State or other CETCs because Verizon Wireless is not seeking to expand the designated area previously granted by the FCC. In reality, Verizon Wireless' rationale for granting of the Petition is somewhat misleading.

In connection with the phase-out commitment, the FCC offered Verizon Wireless two options for electing a baseline for determining the amount of capped High-Cost Support it is

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<sup>18</sup> See *Corr Wireless Order* at ¶9.

<sup>19</sup> *Id.* at ¶16.

eligible for.<sup>20</sup> Specifically, under Option A, the baseline of support is the carrier's 2008 high-cost support.<sup>21</sup> Verizon Wireless chose Option B which allows them to recalculate the level of High-Cost Support quarterly based upon its current data-line counts.<sup>22</sup> To that end, Verizon Wireless has made it clear that it "will seek federal high-cost universal service support throughout the Designated Area for all eligible lines served by Verizon Wireless and its subsidiaries."<sup>23</sup> Granting the current Petition would allow Verizon Wireless, not previously a designated ETC in Florida, to officially "bootstrap" its legacy Verizon Wireless customer base to Alltel's pre-existing ETC status. As a result, Verizon Wireless will be able to "officially" increase significantly its eligible line count without adding a single new customer.

At the same time, a review of the information available from USAC could lead one to believe that Verizon Wireless may have "unofficially" increased its eligible line count without adding a single new customer. A review of USAC filings reveals that Verizon Wireless has privately managed to significantly increase the universal service support receipts in Florida that are attributed to the Alltel entity at a time when it has publicly agreed to reduce its universal service support. More specifically, as the following chart clearly shows, in a matter of one year, universal service support distributed to the Alltel entity in Florida has increased from \$4.6M per year in the 4th quarter of 2009 to \$12.5M per year in the 4th quarter of 2010 without changing its ETC service area. Verizon Wireless apparently did this through creative subsidy filings; that is, by adding Verizon legacy lines to those previously reported by Alltel.

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<sup>20</sup> See *Corr Wireless Order* at ¶ 14.

<sup>21</sup> See *id.* As a result of the Sprint Nextel Corporation and Clearwire Corporation merger, Sprint also agreed to phase-down federal universal service fund support; however, Sprint chose Option A. See *Sprint Nextel Corporation and Clearwire Corporation Applications for Consent to Transfer Control of Licenses, Leases, and Authorization*, WT Docket No. 08-94, Memorandum Opinion and Order and Declaratory Ruling, 23 FCC Rcd 17570 (2008) ("*Sprint Merger Order*"); see also *Ex Parte* Letter from Norina Moy, Director, Government Affairs, Sprint, to Marlene H. Dortch, Secretary, FCC (Oct. 1, 2010).

<sup>22</sup> See *Corr Wireless Order* at ¶ 17; see also *Ex Parte* Letter from Tamara Preiss, Vice President, Federal Regulatory Affairs, Verizon, to Marlene H. Dortch, Secretary, FC (Sept. 28, 2010).

<sup>23</sup> See, *Petition* at Page 2-3.

## Florida CETCs

Based on USAC HC01  
4Q2010 and 4Q2009

Date	State	Study Area Name	Total HC	Total HC	CETC %
			Per Mo	Per Year	HC Support
4Q 2010	FL	NPCR, INC.	\$ 12,593	\$ 151,116	0.83%
4Q 2010	FL	NPCR, INC.	\$ 81,676	\$ 740,112	4.08%
4Q 2010	FL	SPRINT SPECTRUM L.P. (FL)	\$ 383,258	\$ 4,599,072	25.37%
4Q 2010	FL	ALLTEL COMMUNICATIONS INC.	\$ 1,045,411	\$ 12,544,932	69.20%
4Q 2010	FL	KNOLOGY OF FLORIDA, INC.	\$ 7,605	\$ 91,263	0.50%
4Q 2010	FL	KNOLOGY OF FLORIDA, INC.	\$ 163	\$ 1,953	0.01%
4Q 2010	FL	BUDGET PHONE, INC.	\$ -	\$ -	0.00%
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4Q 2009	FL	NPCR, INC.	\$98,800	\$1,185,600	10.21%
4Q 2009	FL	NPCR, INC.	\$18,861	\$226,332	1.95%
4Q 2009	FL	AT&T WIRELESS (FL)	\$0	\$0	0.00%
4Q 2009	FL	SPRINT SPECTRUM L.P. (FL)	\$457,148	\$5,485,776	47.23%
4Q 2009	FL	ALLTEL COMMUNICATIONS, INC.	\$384,365	\$4,612,380	39.71%
4Q 2009	FL	KNOLOGY OF FLORIDA, INC.	\$114	\$1,368	0.01%
4Q 2009	FL	KNOLOGY OF FLORIDA, INC.	\$7,151	\$85,812	0.74%
4Q 2009	FL	BUDGET PHONE, INC.	\$0	\$0	0.00%
4Q 2009	FL	BUDGET PHONE, INC.	\$0	\$0	0.00%
4Q 2009	FL	SOUTHERN COMMUNICATIONS	\$1,383	\$16,596	0.14%

Notes: Source: <http://www.usac.org/about/governance/fcc-filings/2010/quarter-4.aspx> and <http://www.usac.org/about/governance/fcc-filings/2009/quarter-4.aspx>.

The lines that Verizon Wireless has reported under the Alltel entity reflects significant increases in its originally reported line counts since the Alltel merger transaction was finalized. For example, comparing the lines that Verizon Wireless reported for Interstate Access Support – typically available to non-rural carriers and their competitors – for payments made in the first quarter of 2010 to those reported for payments in the second quarter of 2010, the lines increased from 526,510 to 1,461,717 or almost 300%.<sup>24</sup> While T-Mobile does not question Verizon Wireless' ability to increase its subscriber base through new customer adds, it would seem on the surface that such an increase is not customary. These line count increases have significantly

<sup>24</sup> See <http://www.usac.org/about/governance/fcc-filings/2010/quarter-1.aspx> and <http://www.usac.org/about/governance/fcc-filings/2010/quarter-2.aspx>.

inflated payments to Verizon Wireless under the Alltel entity, months prior to the date that Verizon Wireless submitted the Petition and after it had agreed to voluntarily begin withdrawing from the fund. A similar concern has also been recently raised in a recent Ex Parte to the FCC.<sup>25</sup>

T-Mobile is not in a position to determine whether these line count increases are appropriate, or not, under applicable federal and state rules and orders; however the Commission does have this authority and should require clarification of this issue before granting the Petition. Parties in other jurisdictions where Verizon has filed almost identical petitions similar to this one have recommended that the Commission request that USAC and the FCC clarify Verizon's actions before granting approval to any further Verizon ETC petitions. One company in Nevada also recommended that the Nevada Commission file a letter with the FCC and USAC that states that Verizon Wireless is only eligible to receive high-cost support for eligible lines associated with the acquired entities – in that case, WWC License, LLC – and that Verizon Wireless would not be eligible to receive for any lines attributable to Cellco Partnership d/b/a Verizon Wireless.<sup>26</sup> In this case, it is unclear based on the Petition when precisely it became “no longer feasible to distinguish ... subscribers of one company from the others” and if that point in time occurred prior to any required regulatory approvals to amend its reporting in such a manner. More importantly to Florida, if such reporting was not properly authorized and/or these increases had not taken place, it is possible that funds would be available today under the CETC Cap that would not be subject to the phase-down and therefore would be available to any other CETC. As it is now, only existing CETCs and any newly designated CETCs will be eligible only to

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<sup>25</sup> See *Ex Parte* Letter of David A. LaFuria of United States Cellular, Counsel to Marlene H., Dortch, Secretary, FCC, WC Docket No. 05-337; CC Docket No. 96-45 (October 20, 2010).

<sup>26</sup> See Comment Response to Celco/Verizon Waiver and Motion to Modify Procedural Schedule Before the Public Utilities Commission of Nevada, *In re Application of Cellco Partnership d/b/a Verizon Wireless for Approval of a Transfer of Eligible Telecommunications Carrier Designation from WWC License, LLC to Cellco Partnership d/b/a Verizon Wireless*, dated October 19, 2010.

continue to receive a portion of the remaining amount, based on their market share in comparison to Alltel, from the remaining 60% of the capped amount – approximately \$7.5 million. It is important to note, however, that 60 percent of Verizon Wireless' funding will leave Florida as of December 2011 pursuant to the *Corr Wireless Order*. If Verizon Wireless, through this Petition, seeks to ease its administrative burden in the context of fulfilling its original commitment to withdraw from the fund, it is unclear why it would expand its role as a CETC in Florida in any manner, including those discussed above.

Indeed, the Nevada Public Utilities Commission Staff ("Nevada Staff") has also questioned the intent of Verizon Wireless in its recent Application to Transfer Designation as an Eligible Telecommunications Carrier in the State of Nevada.<sup>27</sup> The Nevada Staff's Comments are attached as an Exhibit A to these comments. Specifically, the Nevada Staff has stated:

Requesting ETC Designation and eligibility for high cost support for all of [Verizon Wireless'] preexisting customers, network infrastructure and retail outlets in Counties where WWC remains and in the divested areas is, in truth, a request for new ETC Designation and should be presented as such in the Application.<sup>28</sup> [Verizon's] failure to clearly present this expanded request for authority in its Application is extremely misleading.

The Nevada Staff further notes:

However, not only does [Verizon] seek ETC designation for all of its preexisting customers, facilities, retail outlets and infrastructure in the areas where WWC held such designation, including the areas where the FCC forced [Verizon Wireless] to sell off all of WWC's assets, but it is Staff's understanding that [Verizon Wireless] is already reporting all of its lines as eligible for ETC support to the federal Universal Service Administration Company ("USAC"), the administrator of the Universal Service Fund. In essence, [Verizon Wireless] appears to believe it can receive ETC support for all of its lines without [Nevada Commission] designation.<sup>29</sup>

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<sup>27</sup> See *Application of Cellco Partnership d/b/a Verizon Wireless for approval of a transfer of Eligible Telecommunications Carrier designation from WWC License, LLC to Cellco Partnership d/b/a Verizon Wireless*, Docket No. 10-09007, Regulatory Operations Staff's Answer and Comments, dated October 13, 2010.

<sup>28</sup> See *id.* at pages 3-4.

<sup>29</sup> *Id.*

This Commission should also analyze the Petition in a similar manner as the Nevada Staff to fully appreciate the intent and ultimate result if it grants Verizon Wireless' request in the Petition's current form. However, certain things are clear from the Petition. The capped High-Cost Support available to existing CETCs in Florida will be further reduced. In addition, there will be limited incentive for other carriers to seek ETC status in Florida in order to receive High-Cost Support for investment in Florida because there will be virtually no High-Cost Support left for investment as a result of Verizon's phase-out commitment and increasing line count submissions based upon their market share. Because of Verizon Wireless' phase-out commitment that number will be drastically reduced by 2013 if no other CETCs apply for ETC status.

Accordingly, the Commission should require Verizon to clarify its intent to add its "legacy" Verizon Wireless customer base to the line counts and whether it did so prior to the filing of this Petition. To this end, the Commission should consider excluding the addition of Verizon Wireless' "legacy" customer base to its current line count submission to maintain such funding in Florida beyond 2013.

## **II. The Public Interest Analysis**

According to Verizon Wireless' Petition, the public interest standard is met because: (i) Verizon Wireless will continue to service the ETC designated areas previously granted by the FCC to Alltel; and (ii) the FCC previously recognized that Verizon Wireless' acquisition of Alltel met the public interest in connection with that particular merger transaction, subject to certain conditions, one of which was to phase out universal service support. However, the current Verizon Wireless Petition actually fails to identify the public interest served by granting

this Petition.<sup>30</sup> The ETC designation of Alltel by the FCC now held by Verizon was originally granted six (6) years ago.<sup>31</sup> Such designation was originally granted under markedly different circumstances and under a different jurisdiction which did not include a public interest analysis under Florida law. Verizon Wireless' request for amending the CETC designation presents an entirely new set of facts for review under the required Public Interest Analysis. This is, particularly true because the apparent result of this application will be to increase the amount of support that Verizon Wireless will receive (by including legacy Verizon Wireless lines in its USAC line counts, without Verizon Wireless ever receiving its own ETC designation), and therefore increase the amount of Florida CETC support that will eventually be lost through the application of the merger commitments and the Corr decision. In light of this, Verizon Wireless' reliance on an affidavit in support of public interest analysis or the FCC's prior public interest determinations in a year old ETC designation and merger proceedings is not sufficient.

Verizon Wireless, in seeking to transfer Alltel's ETC designation to it, is asking this Commission to designate Verizon Wireless an ETC carrier, with all of the rights, duties, and responsibilities associated with such a designation. This is not the same thing as a simple transfer of a telephone company certification form one entity to another. This Commission has said, as recently as the order granting T-Mobile's ETC status, "we have determined that before designating a carrier as an ETC, we should make an affirmative determination that such designation is in the public interest, regardless of whether the applicant seeks designation in an area served by a rural or non-rural carrier."<sup>32</sup> None of the information necessary to designate Verizon Wireless as

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<sup>30</sup> See Petition at ¶ III.

<sup>31</sup> See FCC Designation Order.

<sup>32</sup> Order No. PSC-10-047S-PAA-TP, at 4 (July 28, 2010), citing *In re: Petition for designation as eligible telecommunications carrier (ETC) by Easy Telephone, Inc.*, Docket No. 090337-TX, PSC-10-0125-PAA-TX, issued March 2, 2010, p.4; *In re: Application for designation as eligible telecommunications carrier (ETC) by Express Phone Service, Inc.*, Docket No. 080169-TX, PSC-08-0836-PAA-TX, issued December 24, 2008, p.4.



an ETC is present in the Petition that would support the required public interest that must be made prior to any action on the application.

**A. Minimal ETC Public Interest Filing Requirements.**

The Verizon Wireless Petition only provides a brief two paragraph summary of the FCC's conclusion that approving the merger of the Alltel and Verizon Wireless would be in the public interest. Such broad conclusory language in and of itself does not fulfill the minimum requirements that would permit a meaningful substantive review as to whether for purposes of Florida PSC review granting Verizon Wireless ETC status would be in the public interest.

In the *T-Mobile ETC Orders* (as it had in the ETC applications for other carriers) this Commission fully investigated the level and extent of the company's commitment to providing the supported services, the commitment to serve all consumers throughout the designated ETC service area, whether the company would offer Lifeline service consistent with all applicable requirements, how the company would advertise the availability of its universal service offerings, the agreement of the company to participate in the Florida automatic enrollment process, and the specific details as to how grant T-Mobile ETC status would further the goals of the universal service program. T-Mobile provided to the Commission, either as a part of its initial application or through subsequent data request responses, sample advertisements, an identification of available telephone equipment, sample rate plans, available free minutes included within the calling plan, additional services to be offered to customers, the availability of toll limitation services, accessibility to operator services, accessibility to long distance carriers, availability of directory assistance services, various marketing outreach availability in order to increase customer awareness and access to T-Mobile's then proposed services, CTIA's consistent certification of T-Mobile to its Consumer Code for Wireless Service, T-Mobile's J.D.

Power and Associates' customer service rankings and findings, T-Mobile's emergency preparedness plans and business continuity program, and how T-Mobile's plans for avoiding consumer fraud to ensure that only qualified applicants obtain T-Mobile's services. Verizon Wireless' Petition and supporting affidavit either did not contain any such substantive information or only offered an affirmation of its commitment to provide such services or options. While there is no reason to question the veracity of Verizon Wireless' commitments, commitments alone do not rise to the level of sufficient detail of the applicable statutory standards that would allow the Commission to come to an informed decision regarding the details as to how Verizon Wireless would fulfill the ETC carrier obligations it is seeking to assume. The public interest standard in the law requires the submission and review of data and documents that simply are not present in the present application.

**B. Verizon Wireless Should Provide Further Commitments to the State of Florida in Light of the Interim Cap and its Phase-Out of High-Cost Support.**

In addition to the specific items addressed under the statute above, Alltel was previously required to submit a five (5) year Service Improvement Plan ("SIP") to the FCC.<sup>33</sup> Verizon Wireless is now responsible for fulfilling the SIP. The Commission should question Verizon Wireless' intent and ability to fulfill its SIP commitments in light of the *Interim Cap Order* and *Corr Wireless Order*, resulting in significant loss of High-Cost Support (60% Loss in 2011) in connection with its phase-out commitment. Alternatively, the Commission should require Verizon Wireless to submit a new SIP for Commission review accounting for this phase-down of funding prior to granting the current Petition.

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<sup>33</sup> See 47 C.F.R. § 54.209(a)(1).

**C. Verizon Should Not be Allowed to Add its “Legacy” Customer Base for Developing the Number of Lines Eligible for High-Cost Support.**

Verizon Wireless’ Petition provides “Petitioner’s seek federal high-cost universal support throughout the Designated Area that for all eligible lines served by Verizon Wireless and its subsidiaries and affiliates.” This request, however, is vague and misleading. In reality, Verizon Wireless now seeks High-Cost Support for all lines, including its “legacy” customer base despite the fact Verizon Wireless has been operating in Florida for a number of years without ever applying for ETC designation.

Verizon Wireless should be questioned as to why lines previously acquired and maintained on facilities without High-Cost Support should now be added to the eligible line counts for receipt of High-Cost Support (the “*Eligible Lines*”). Such a move allows Verizon Wireless to increase its Eligible Lines under the *Interim Cap Order* and thus garner more High-Cost Support due to its large market share in Florida. The consequence is that more High-Cost Support is lost to Florida under Verizon Wireless’ phase-out commitment.

Furthermore, allowing Verizon Wireless to add its “legacy” customer base to its Eligible Lines reduces the High-Cost Support available to other CETCs and discourages other carriers from seeking ETC status for investment of High-Cost Support in Florida. Verizon Wireless should also clarify at what point it began adding its “legacy” customer base for its Eligible Lines. Any attempt by Verizon Wireless to add its “legacy” customer base is premature and runs afoul of the current ETC designation. The Commission should clarify the addition of Verizon Wireless’ “legacy” customer base and withhold approval of the Petition until the issue is resolved. Further, any addition of Verizon Wireless’ “legacy” customer base to the Eligible Lines in advance of this Commission’s grant of the current Petition is inappropriate and Verizon

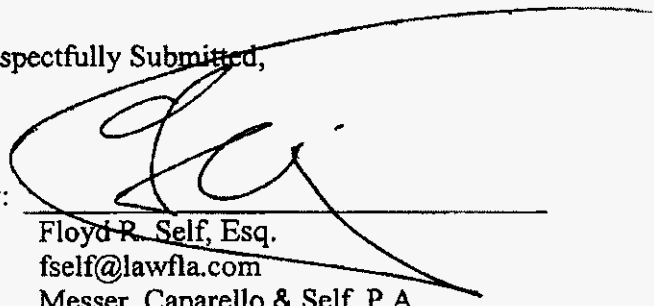
Wireless should be required to account for and return any High-Cost Support attributable to its “legacy” customer base.

### CONCLUSION

T-Mobile takes no position on Verizon’s Petition at this time. However, T-Mobile does believe that the Commission and interested persons should be made aware of all relevant facts. The Petition should not be viewed as a pro forma, ministerial rubber stamp request solely for administrative purposes. Just as it has done with every other ETC applicant, the Commission should require full compliance with all the applicable ETC application requirements, including clarity on how granting the Petition impacts current CETCs, potential CETCs and most importantly, Florida consumers.

Respectfully Submitted,

By:



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13 **BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA**

14 Application of Cellco Partnership d/b/a Verizon  
15 Wireless for approval of a transfer of Eligible  
16 Telecommunications Carrier designation from Docket No. 10-09007  
17 WWC License, LLC to Cellco Partnership  
18 d/b/a Verizon Wireless.

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**REGULATORY OPERATIONS STAFF'S ANSWER AND COMMENTS**

The Regulatory Operations Staff ("Staff") of the Public Utilities Commission of Nevada ("Commission") hereby submits its Comments pursuant to the Notice Application to Transfer Designation as an Eligible Telecommunications Carrier ("ETC") and Notice of Pendency of Hearing ("Notice") issued by the Commission in Docket No. 10-09007 on September 22, 2010.

**STAFF'S RECOMMENDATION**

Staff, at this point, recommends that the Commission deny the Application of Cellco Partnership and its Subsidiaries and Affiliates ("Cellco") to Amend Eligible Telecommunications Carrier Designation in the State of Nevada ("Application"), for a number of legal and policy based reasons which will be outlined hereafter. Staff is willing to reconsider the recommendation based on information produced in the discovery process and further negotiations, but at this point, Staff believes the Application should be denied by the Commission.

**I. Application Insufficiencies**

The Application in the present Docket, filed September 10, 2010 is vague and misleading. While styled as an Application to Amend ETC Designation, the Application is, for the most part, an Application for a new ETC Designation. Cellco has requested the Commission amend the ETC

1 status held by WWC License, LLC ("WWC"). Cellco requests expanding its authority to its existing  
2 subscribers and facilities, but not to expand WWC's current designated ETC area. To be fair, there is  
3 an element of amendment of WWC's ETC designation in the Application regarding the remaining  
4 portions of WWC's network; however, the largest portion of the requested ETC designation concerns  
5 network infrastructure previously owned by Cellco and for which Cellco has never been designated  
6 as an ETC. Staff presents the following factual summary to aid the Commission.

7 **a. Factual Summary**

8 Designation as an ETC entitles a carrier to access to federal and state funds for supporting its  
9 basic network services provided in Nevada.<sup>1</sup> The support provided to an ETC must only be used by  
10 the ETC for supported services.<sup>2</sup> It should be noted that Cellco has not requested state universal  
11 service funds as part of the Application.

12 The Commission has prescribed requirements in regulation in order for telecommunications  
13 entities to become ETCs in Nevada.<sup>3</sup> Designation of an ETC in areas served by rural telephone  
14 companies must be found to be in the public interest by a designating state.<sup>4</sup>

15 WWC was granted ETC status in Nevada in Docket No. 00-6003, and expanded its ETC  
16 designation in Docket No. 04-3030. WWC<sup>5</sup> was the only competitive ETC ("CETC") authorized to  
17 operate in rural areas of Nevada until Commnet of Nevada, LLC was designated as an ETC in rural  
18 exchanges of Nevada.<sup>6</sup> Staff supported the designation of these CETCs for similar reasons, and in  
19 particular, because the rural areas of Nevada have sparse cellular coverage outside of cities and fewer  
20 wireline options.

21 Cellco, on the other hand, has been providing cellular service to rural Nevadans for years,  
22 without ever applying for ETC designation. In fact, when Cellco acquired Alltel<sup>7</sup>, the Federal

23 <sup>1</sup> See Nevada Administrative Code ("NAC") 704.680464.

24 <sup>2</sup> 47 CFR 54.7 states "A carrier that receives federal universal service support shall use that support only for the  
25 provision, maintenance, and upgrading of facilities and services for which the support is intended."

26 <sup>3</sup> See NAC 704.680461.

27 <sup>4</sup> See 47 CFR 54.201(c).

28 <sup>5</sup> WWC was acquired by Alltel Corporation ("Alltel") pursuant to a merger agreement signed January 9, 2005, and  
thereafter became a wholly owned subsidiary of Alltel. However, as WWC continued to operate under its own name, and  
Alltel had no preexisting customers in Nevada, the ETC designation remained with WWC.

<sup>6</sup> See Compliance Order Docket No. 08-12017 (issued March 2, 2009) & Compliance Order 10-01011 (issued April 6,  
2010).

<sup>7</sup> The Agreement and Plan of Merger was entered into on June 5, 2008.

1 Communications Commission ("FCC") required Cellco/Alltel to "divest" the assets of one or the  
2 other of the companies in several areas because of concerns regarding potential monopolization of  
3 market share. In Nevada, those areas included Elko County, Eureka County, Lander County, White  
4 Pine County and Lincoln County (hereinafter referred to as the "divested area"). Cellco/Alltel sold  
5 off all of WWC's preexisting customers, network infrastructure and retail outlets in the divested area  
6 (which were designated through WWC for ETC high cost support) to AT&T Mobility, leaving only  
7 Cellco's preexisting customers, network infrastructure and retail outlets in said counties (which have  
8 never been designated for ETC high cost support). This left Cellco/Alltel with a customer base and  
9 infrastructure in the divested area not designated as an ETC.

10 In the remaining areas where WWC had designation as an ETC and preexisting customers,  
11 network infrastructure and retail outlets, (Churchill County, Humboldt County, Pershing County,  
12 Esmeralda County, Mineral County and Nye County, hereinafter referred to as the "non-divested  
13 area"), Cellco also had preexisting customers, network infrastructure and retail outlets, but the  
14 potential combined customer base was not a large enough proportion of the market share to cause the  
15 FCC to order divestiture. Cellco was not designated as an ETC in these counties either.

16 In the present Application, Cellco asks this Commission to "Amend" WWC's previous ETC  
17 Designation to be in Cellco's name. The Application asks for this amendment not only where  
18 WWC's preexisting customers, network infrastructure and retail outlets are now owned by Cellco and  
19 operating under the Cellco name (the non-divested area), but also for designation for high cost  
20 purposes of all of Cellco's preexisting customers, network infrastructure and retail outlets in the non-  
21 divested area. Even more egregious a misrepresentation, Cellco asks this Commission to "Amend"  
22 WWC's previous ETC Designation to be in Cellco's name and cover all of Cellco's preexisting  
23 customers, network infrastructure and retail outlets in the divested areas as well. What Cellco does  
24 not make clear is that this amendment would effectively grant Cellco ETC designation where there  
25 are no vestiges of WWC's preexisting customers, network infrastructure and retail outlets remaining,  
26 within the divested area, as all of those customers/assets have all been sold to AT&T Mobility.

27 While changing the designation from WWC to Cellco could, possibly, be deemed an  
28 "Amendment of ETC Designation" for WWC's preexisting customers, network infrastructure and

1 retail outlets which are now operating under the Cellco name, clearly, it is not an "Amendment" of  
2 ETC Designation for all of Cellco's preexisting customers, network infrastructure and retail outlets,  
3 as these customers and facilities were never granted ETC designation, whether in Counties where  
4 WWC remains or in the divested areas. Requesting ETC Designation and eligibility for high cost  
5 support for all of Cellco's preexisting customers, network infrastructure and retail outlets in Counties  
6 where WWC remains and in the divested areas is, in truth, a request for new ETC Designation and  
7 should be presented as such in the Application. Cellco's failure to clearly present this expanded  
8 request for authority in its Application is extremely misleading. More importantly, as discussed  
9 below, given the nature of the true request from Cellco for designation of all of its customers, the  
10 Commission needs to be aware that such a designation will have an impact on the other CETC  
11 designated in Nevada, Commnet, as well as on future funding available to all CETCs in Nevada.

12 Instead, it is hidden within the Application. The only reference that Cellco seeks to request  
13 high cost support for all of its lines occurs on the third page of the Application, in a seemingly casual  
14 sentence. However, not only does Cellco seek ETC designation for all of its preexisting customers,  
15 facilities, retail outlets and infrastructure in the areas where WWC held such designation, including  
16 the areas where the FCC forced Cellco to sell off all of WWC's assets, but it is Staff's understanding  
17 that Cellco is already reporting all of its lines as eligible for ETC support to the federal Universal  
18 Service Administrative Company ("USAC")<sup>8</sup>, the administrator of the Universal Service Fund. In  
19 essence, Cellco appears to believe it can receive ETC support for all of its lines without Commission  
20 designation.

## 21 2. Notice Insufficiencies

22 The Notice issued in the present Docket on September 22, 2010, gives adequate notice to the  
23 public about what, on its face, the Application requests, a "transfer" of ETC designation from WWC  
24 to Cellco. However, because the Application itself is so vague and misleading, the Notice does not,  
25 in fact, give the general public notice that Cellco is requesting ETC designation and high cost support  
26 eligibility for all of its preexisting network infrastructure and assets that had never received ETC

27 \_\_\_\_\_  
28 <sup>8</sup> Staff has been provided a letter from Verizon Wireless to USAC indicating that Verizon Wireless has included all lines  
under common ownership or control in the Alltel designated areas in its September 30, 2009, Form 525 Line Count  
Filings.



1 designation. The Application itself was so vague that Staff was unsure what was being requested  
2 and, within a matter of days of the filing, Staff had to issue 30 data requests to attempt to determine  
3 what the Application was, in fact, seeking.<sup>9</sup> Staff is concerned that although the Notice is a fair  
4 depiction of what the Application purports to be, given the poor quality of the Application, interested  
5 persons are not advised by the Notice of how the actual outcome of the this proceeding might affect  
6 their interests.

7 Further, the Notice issued does not indicate that the expansion of ETC coverage to all of  
8 Cellco's assets in WWC's designated areas would lower the amount of high cost support available to  
9 Nevada's other competitive ETC providers.<sup>10</sup> In its March, 2008 Order on High Cost Universal  
10 Service Support, the FCC imposed an interim cap on federal CETC high cost support.<sup>11</sup> The cap  
11 limits the annual amount of support to CETCs in each state to the annualized amount CETC's were  
12 eligible to receive during March 2008. Because the FCC has capped the amount of high cost USF  
13 funds available to each state, and because the state by state capped funds are divided based on the  
14 number of access lines (phone numbers) each designated ETC is serving, expanding a designation in  
15 the manner Cellco is requesting could potentially shift the distribution of the capped funds between  
16 the competitive ETCs and alter the amount of support received by any other ETC in Nevada.<sup>12</sup> The  
17 Application, as it is in material part a request for new ETC designation, should have been Noticed as  
18 such, thus giving the general public actual notice of what was being requested in the Application.

19 In addition, the FCC has given state commissions guidance on what to consider when  
20 evaluating Applications for new ETC designation; standards that should be applied in the present  
21 Docket. The Application does not adequately address these standards, which are explained in further  
22 detail below.

23  
24 <sup>9</sup> The data requests have not been returned, the due dates for response is October 14-15, 2010, following the deadline for  
25 comments. To its credit, Cellco has been diligently working with Staff, through email and phone correspondence, to  
allow Staff a sufficient understanding of the filing to file these comments.

26 <sup>10</sup> Currently, Commnet is the only other designated ETC that is eligible for high cost USF support in Nevada.

27 <sup>11</sup> See IN THE MATTER OF HIGH-COST UNIVERSAL SERVICE SUPPORT FEDERAL-STATE JOINT BOARD ON  
UNIVERSAL SERVICE ALLTEL COMMUNICATIONS, INC., ET AL, RCC MINNESOTA, INC. AND RCC  
ATLANTIC, INC. NEW HAMPSHIRE ETC DESIGNATION AMENDMENT, 23 F.C.C.R. 8834, 8839 (2008).

28 <sup>12</sup> Cellco has indicated, in a telephone conference with Staff on October 8, 2010, that their preliminary estimate of access  
line numbers would only raise the access lines from approximately 40,000 to "the mid- to high forty thousand area" but  
the actual number of access lines for which Cellco would seek high cost USF support has not yet been provided to Staff.

1           **3.     FCC Requirements for New ETC Designation**

2           In the decision, IN THE MATTER OF FEDERAL-STATE JOINT BOARD ON  
3 UNIVERSAL SERVICE, 20 F.C.C.R. 6371, 20 FCC Rcd. 6371 (F.C.C.), (2005), the FCC, though  
4 not binding on the States, issued recommendations on what standards should be applied when  
5 evaluating a request for new ETC designation. State commissions are charged with reviewing ETC  
6 designation applications for compliance with 47 U.S.C. § 214(e)(1). 20 F.C.C.R. 6371, 6378. In  
7 addition, the FCC conducts a public interest analysis for ETC designations, which includes an  
8 examination of (1) the benefits of increased consumer choice, (2) the impact of the designation on the  
9 universal service fund, and (3) the unique advantages and disadvantages of the competitor's service  
10 offering. The FCC further encourages state commissions to require ETC applicants over which they  
11 have jurisdiction to meet these same conditions and to conduct the same public interest analysis. Id  
12 at 6379.

13           The FCC equates the importance of the public interest tests with the Telecommunications Act  
14 itself, stating, in pertinent part:

15                   The public interest benefits of a particular ETC designation must be  
16                   analyzed in a manner that is consistent with the purposes of the Act itself,  
17                   including the fundamental goals of preserving and advancing universal  
18                   service; ensuring the availability of quality telecommunications services at  
19                   just, reasonable, and affordable rates; and promoting the deployment of  
                    advanced telecommunications and information services to all regions of  
                    the nation, including rural and high-cost areas. Id. At 6388.

20           **a.   The Benefits of Increased Consumer Choice**

21           Even a cursory glance at the present Application shows those public interest tests are not met.  
22 The requested designation will not increase consumer choice. Cellco has been offering service in the  
23 requested areas for years and has done so without any high cost support.

24           **b.   The Impact of the Designation on the Universal Service Fund**

25           The largest problem is the potential impact of the requested designation on the universal  
26 service fund. As mentioned above, because the FCC has capped the amount of high cost USF funds  
27 available to each state, and because the state by state capped funds are divided based on the number  
28 of access lines (phone numbers) each designated ETC is serving, expanding a designation in the

1 manner Cellco is requesting could potentially shift the distribution of the capped funds between the  
2 competitive ETCs and alter the amount of support received by any other CETC in Nevada. By  
3 adding Cellco lines to the WWC ETC line count reported for support and thereby increasing support  
4 payments to Cellco, CETC support will be diluted in Nevada. The only other CETC will receive less  
5 federal high cost support. Less support may decrease investment by the remaining CETC in its  
6 facilities serving rural areas of Nevada.

7 The impact on the USF would, in fact, be greater than even that. The FCC ordered Cellco,  
8 when approving the acquisition of Alltel, to phase down the amount of USF support it receives by  
9 20% per year beginning in 2009 until it is 0% in 2013.<sup>13</sup> Therefore, Cellco, even if designated  
10 eligible for ETC high cost support, will receive 60% of the support it is eligible to receive in 2010,  
11 40% in 2011 and 20% in 2012.

12 Further, based on a recent ruling by the FCC<sup>14</sup> in a Request for Review of Decision of  
13 Universal Service Administrator by Corr Wireless Communications, LLC ("Corr Decision"), the  
14 phased down support will not be returned to the state specific cap to be redistributed to the other  
15 CTECs. Rather, it will be recaptured and be used as the base of a new broadband focused fund the  
16 FCC has not decided how to distribute as of yet. 434, 2010 WL 3484249 (F.C.C.) at page 6.  
17 Therefore, not only would the amount of money going to Nevada's other CETC decrease due to  
18 Cellco adding access lines, but Cellco would only get a percentage of the funds to use for expanding  
19 service and improving infrastructure, as its eligibility is being phased down, and that money would be  
20 removed from the Nevada cap, permanently lowering the amount of federal high cost USF support  
21 available to serve the citizens of Nevada.

22 In 2013, all Cellco support will be lost because the phase-down will be complete. When the  
23 federal support is phased-out for Cellco, it is not redistributed, leaving federal support equal to the  
24 amount paid to the remaining CETC. The remaining CETC may require additional funding to

25  
26 <sup>13</sup> See Applications of Cellco Partnership d/b/a Verizon Wireless and Atlantis Holdings LLC for Consent to Transfer  
27 Control of Licenses, Authorizations, and Spectrum Manager and De Facto Transfer Leasing Arrangements and Petition  
28 for Declaratory Ruling That the Transaction Is Consistent with Section 310(b)(4) of the Communications Act, 23 FCC  
Rcd 17444 (2008)

<sup>14</sup> IN THE MATTER OF HIGH-COST UNIVERSAL SERVICE SUPPORT FEDERAL-STATE JOINT BOARD ON  
UNIVERSAL SERVICE, 51 Communications Reg. (P&F) 434, 2010 WL 3484249 (F.C.C.).

1 continue operations in Nevada which, if the federal fund allocation to Nevada is permanently  
2 lowered, can only be obtained from the Nevada fund to maintain the availability of telephone service  
3 ("NUSF<sup>15</sup>"). If funding is granted from the NUSF by the Commission, this amount must be collected  
4 from Nevada telecommunications providers, which increases the cost of services to Nevada's  
5 customers. The impact of a shift of support from federal to the state high cost pool (NUSF) has a  
6 greater impact since the cost for that support is collected from Nevada telecommunications users  
7 instead of from users across the entire country.

8 **c. The Unique Advantages and Disadvantages of the Competitor's Service Offering**

9 Concerning the advantages and disadvantages of Cellco's service offering, Staff agrees that  
10 Cellco offers a quality product to Nevada customers. However, they have been doing so for years  
11 without support, and there is nothing in the Application that indicates that they will increase services  
12 offered or in any way enhance the services they have been providing if they are able to receive  
13 federal support.

14 Even if Cellco does provide additional facilities and expand supported services in the next  
15 two years it may receive federal funding, Staff must question if it is in the public interest to divert  
16 funding to the Applicant in hopes it will efficiently invest the remaining support for the short period it  
17 is eligible to receive support.

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26 <sup>15</sup> The federally funded USF is collected from all lines in the nation and distributed pursuant to the state-by-state  
27 allocation devised by the FCC for competitive ETCs and distributed for incumbents on the basis of different kinds of high  
28 cost support. The NUSF is funded only by Nevada ratepayers and is used to supplement federal USF support when the  
federal support is not sufficient to meet the requirements of the ETCs. Nevada carriers seeking NUSF must apply on an  
annual basis to demonstrate such need. Therefore, if federal USF support is lowered, a CETC could come this  
Commission to request designation to receive NUSF. While the Commission has not yet been presented with the issue of  
a request from a CETC for NUSF, the potential need exists if federal USF support were lowered.

1 **CONCLUSION**

2 Staff, at this point, recommends that the Commission deny the Application, for a number of  
3 legal and policy based reasons outlined above. Staff is certainly willing to re-evaluate this  
4 recommendation based on the responses to the pending data requests and other discovery, however,  
5 at this point Staff believes the vehicle chosen is flawed and the Application should be denied.

6  
7 RESPECTFULLY SUBMITTED this 13<sup>th</sup> day of October, 2010.

8  
9 PUBLIC UTILITIES COMMISSION OF NEVADA

10  
11 By:

  
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13 Samuel S. Crano, Assistant Staff Counsel  
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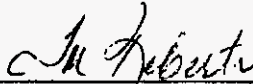
1 **PROOF OF SERVICE**

2 I hereby certify that I have this day served the foregoing document upon all parties of record  
3 in this proceeding by electronic mail to the recipient's current electronic mail address and mailing a  
4 copy thereof, properly addressed to:  
5

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13 DATED at Carson City, Nevada, on the 13<sup>th</sup> day of October, 2010.

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17 An employee of the Public Utilities  
18 Commission of Nevada  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served on the following parties by Electronic Mail and/or U.S. Mail this 29<sup>th</sup> day of October, 2010.

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Columbus, OH 43224-2911

FLATEL, Inc.  
Attn: Legal Department  
Executive Center, Suite 100  
2300 Palm Beach Lakes Boulevard  
West Palm Beach, FL 33409-3307

Sprint Communications Company  
Limited Partnership  
d/b/a Sprint-Nextel  
Attn: Legal Department  
MS: GAATLD0704  
3065 Akers Mill Road, S.E.  
Atlanta, GA 30339-3124

American Dial Tone, Inc.  
Attn: Legal Department  
6905 North Wickham Road, Suite 403  
Melbourne, FL 32940-7553

Midwestern Telecommunications, Inc.  
Attn: Legal Department  
P.O. Box 1401  
Chicago Heights, IL 60412-7401

dPi-Teleconnect, L.L.C.  
Attn: Legal Department  
3350 Boyington Drive, Suite 200  
Carrollton, TX 75006-5028

Knology of Florida, Inc.  
c/o Knology, Inc.  
Attn: Legal Department  
1241 O. G. Skinner Drive  
West Point, GA 31833-1789

TracPhone d/b/a Safelink Wireless  
Attn: Legal Department  
9700 N.W. 112<sup>th</sup> Avenue  
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Floyd R. Self