

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

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In the Matter of	)	
	)	
	)	
Application of Cellco Partnership d/b/a	)	WT Docket No. 12-4
Verizon Wireless and SpectrumCo LLC For	)	
Consent To Assign Licenses	)	
	)	
Application of Cellco Partnership d/b/a	)	
Verizon Wireless and Cox TMI Wireless,	)	
LLC For Consent To Assign Licenses	)	
	)	

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**METROPCS COMMUNICATIONS, INC.  
PETITION TO DENY APPLICATIONS**

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**METROPCS COMMUNICATIONS, INC.  
PETITION TO DENY APPLICATIONS**

MetroPCS Communications, Inc. (“MetroPCS”)<sup>1</sup> hereby petitions the Federal Communications Commission (“FCC” or “Commission”) to deny the above-captioned applications (the “Applications”) filed by Cellco Partnership d/b/a Verizon Wireless (“Verizon”), SpectrumCo, LLC (“SpectrumCo”) and Cox TMI Wireless, LLC (“Cox”) (collectively, the “Applicants”). As is set forth in greater detail below, the Applications are devoid of certain critical information. This necessarily prevents the Commission from finding that a grant of the Applications would serve the public interest. Unless the Applicants provide the missing information, the Commission must deny the applications. In opposition to the Applications, the following is respectfully shown:

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<sup>1</sup> For purposes of these Comments, the term “MetroPCS” refers to MetroPCS Communications, Inc. and all of its FCC license-holding subsidiaries.

## **I. PRELIMINARY STATEMENT**

MetroPCS is a provider of wireless broadband services and is licensed by the Commission to provide service in many of the same geographic areas in which Verizon is seeking to acquire spectrum pursuant to a series of transactions with SpectrumCo, Cox and others (the “Transactions”).<sup>2</sup> Consequently, MetroPCS is a party in interest with standing to submit this Petition.<sup>3</sup> The Petition is timely filed within the period set forth in the *Public Notice*, DA 12-35, released January 11, 2012.

## **II. THE APPLICATIONS CANNOT BE GRANTED AT THIS TIME**

From the outset of this proceeding, MetroPCS has urged the Commission to adopt an orderly review process that will provide the Commission and interested parties with all of the relevant information necessary to make a meaningful public interest determination. For instance, when Verizon initially sought to foster a bifurcated review by submitting these obviously-related Applications on a sequential basis, MetroPCS urged the Commission to set a single unified pleading schedule that would allow all of the related Applications to be considered at the same time on a consolidated basis.<sup>4</sup> The Commission responded by setting concurrent pleading cycles for all of the related Applications, and consolidating the Verizon/SpectrumCo and Verizon/Cox applications.<sup>5</sup>

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<sup>2</sup> In addition to these Applications, Verizon is seeking to acquire AWS and PCS licenses of Cricket License Company LLC, Savary Island License A, LLC and Savary License B, LLC in a transaction with Leap Wireless International (the “Leap Transaction”) in certain territories which overlap the markets involved in the Applicants’ Transactions.

<sup>3</sup> 47 C.F.R. § 1.939(a).

<sup>4</sup> See MetroPCS Motion to Defer Action Pending Consolidation filed December 27, 2011.

<sup>5</sup> See *Order*, DA 11-2096, released December 30, 2011.

Upon reviewing the public interest statements filed by the Applicants which advocated that “[t]he Commission’s review of [the Applications] under Section 310(d) of the Act, and under applicable precedent, should be limited,”<sup>6</sup> representatives of MetroPCS met with the Commission staff to express their view that the Applications “merit a close look and the Commission should gather and analyze data relating to a number of areas before it can conclude that the transactions serve the public interest.”<sup>7</sup> Specifically, MetroPCS indicated that it was unable to take a position on the merits of the Transactions unless and until the Commission requested and secured additional information with respect to both the buyer<sup>8</sup> and the sellers.<sup>9</sup>

Subsequently, when other parties likewise identified information that was missing from the Applications,<sup>10</sup> MetroPCS joined in the request that the pleading cycle in this proceeding be suspended pending the submission of such further information by the Applicants.<sup>11</sup> MetroPCS was not trying to delay the applications by requesting this information. Rather, in doing so, MetroPCS made clear its view that allowing parties to file comments based upon a complete

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<sup>6</sup> See, e.g., ULS File No. 0004996680, Ex. 1, p. 5.

<sup>7</sup> MetroPCS *Ex Parte* Communication, WT Docket No. 12-4, filed January 27, 2012 at p. 1. (“*MetroPCS January Ex Parte*”).

<sup>8</sup> The buyer needs to provide a market-by-market analysis for every major market in which it is acquiring spectrum which, at a minimum, depicts (1) the spectrum Verizon holds, (2) the extent to which it has been placed in service; and, (3) the nature of the service provided and the utilization as shown in traffic studies. See MetroPCS January *Ex Parte* at p. 2.

<sup>9</sup> The sellers need to provide documents sufficient for the Commission to ascertain whether they acquired the spectrum at issue with a *bona fide* intent to construct facilities and provide beneficial services to the public.

<sup>10</sup> See Letter from Media Access Project, Free Press, Public Knowledge and the Greenlining Institute to Marlene H. Dortch, WT Docket No. 12-4 (filed Feb. 7, 2012); see also Letter from DIRECTV, Rural Telecommunications Group, Inc., Sprint Nextel Corporation, T-Mobile USA, Inc., and Rural Cellular Association to Marlene H. Dortch, WT Docket No. 12-4 (filed Feb. 8, 2012).

<sup>11</sup> MetroPCS *Ex Parte* Communication, WT Docket No. 12-4, filed February 9, 2012.

record actually could expedite the processing of the Applications by fostering an orderly process that avoided the need for supplemental filings. Further, such a record would allow the Commission to determine whether the public interest would be served by a grant of the Applications. Unfortunately, the multiple requests for a suspension of the pleading cycle have not been acted upon by the Commission, and as a consequence, MetroPCS does not have access to all of the information it believes is necessary in order to fully assess the public interest implications of the Transactions and the Applications.

Under the legal standard set by Section 310(d) of the Communications Act,<sup>12</sup> the Commission cannot grant a license assignment without making an affirmative finding that the public interest, convenience and necessity will be served thereby. The Commission should not, and cannot, make such a finding based on the record provided to date by the Applicants.

Whenever the Commission finds on the basis of the Applications, any pleadings filed, or other matters which it may officially notice, that there are substantial and material questions of fact whether grants would serve the public interest, the Commission is obligated to formally designate the applications for hearing.<sup>13</sup> Here, the questions posed in the MetroPCS January *Ex Parte* are material and remain unresolved. On this basis alone, and in the absence of filings by the Applicants sufficient to address the questions,<sup>14</sup> the Applications must be denied or designated for hearing.

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<sup>12</sup> 47 U.S.C. § 310(d).

<sup>13</sup> 47 U.S.C. § 309 (d) and (e).

<sup>14</sup> MetroPCS reserves the right to comment upon any information filed by the Applicants, either on their own motion or at the request of the Commission.

### III. CONCLUSION

The foregoing premises having been duly considered, MetroPCS respectfully submits that, unless and until the Applicants place in the record the missing information identified in MetroPCS' January *Ex Parte*, the Applications must be held in abeyance. Otherwise, the Applications should be denied or designated for an evidentiary proceeding.

Respectfully submitted,

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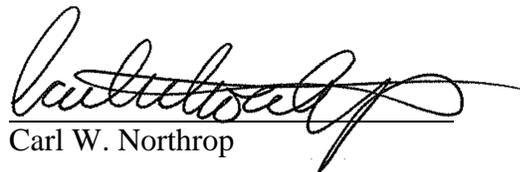
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February 21, 2012

**CERTIFICATE OF SERVICE**

I, Carl W. Northrop, hereby certify that on the 21st day of February, 2012, I caused a true and correct copy of the foregoing Petition to Deny Applications to be sent by electronic mail to:

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