

April 25, 2012

Ex Parte

Marlene H. Dortch
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 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:

Bright House Networks, LLC (“BHN”), Cellco Partnership d/b/a Verizon Wireless (“Verizon Wireless”), Comcast Corp. (“Comcast”), Cox TMI Wireless, LLC (“Cox Wireless”), SpectrumCo, LLC (“SpectrumCo”), and Time Warner Cable Inc. (“TWC” and collectively “Applicants”) submit this letter to correct the record in response to the April 20, 2012 *ex parte* notice filed by the Communications Workers of America (“CWA”). CWA claims it was not timely provided with copies of several of Applicants’ responses to the Commission’s information and discovery requests or that it could not access those copies.¹ CWA’s allegations are meritless and provide no grounds for delaying the Commission’s completion of its review of the transactions.²

¹ See Letter from Monica S. Desai, Counsel for Communications Workers of America, to Marlene H. Dortch, Federal Communications Commission, WT Docket No. 12-4 (filed Apr. 20, 2012) (“CWA Letter”).

² Yesterday, DIRECTV and several other entities filed a letter indicating they “have encountered the same or similar delays and technical difficulties” as CWA. Letter from William M. Wiltshire, Counsel for DIRECTV, *et al.* to Marlene H. Dortch, Federal Communications Commission, WT Docket No. 12-4 (filed Apr. 24, 2012). Yet, the delays they allege are unspecified and the technical difficulties they point to are due to the Applicants’ using technical formats and processes specified by the Commission. Most interestingly, of the nine signatory entities to the letter, four have not requested nor obtained access to the confidential materials of which they complain. And none of the signatories have notified the Applicants of any problems with the materials. Plainly, this letter also provides no grounds for delaying the Commission’s review. If these entities have specific problems with the productions, they should raise them with the Applicants.

With respect to BHN's production, CWA alleges that BHN failed to provide documents to CWA in a timely manner. This complaint is unfounded as BHN responded promptly to each CWA request:

- On March 29, 2012, counsel for BHN received a request from Patton Boggs (on behalf of CWA) for a copy of BHN's interrogatory responses, which had been filed on March 22. Patton Boggs was given a copy of BHN's interrogatory responses the next day.
- Counsel for BHN did not receive any further requests from Patton Boggs until April 16, when Patton Boggs inquired at 5:09 p.m. whether BHN had completed its production. The next day, April 17, counsel for BHN indicated that a copy of the production would be available the following day, and inquired whether Patton Boggs preferred a Summation version or a PDF version of the production.
- On April 18, Patton Boggs indicated that they preferred a Summation version of the production, and scheduled a pick-up for 10 a.m. on April 19. However, Patton Boggs failed to pick up the copy of the production on April 19 as scheduled, instead raising a new request for a W-9 form from BHN's counsel prior to paying for the production copy. On April 20, Patton Boggs indicated that the W-9 form was not required, and amended their request to include a copy of BHN's production from April 19. That same day, on April 20, Patton Boggs picked up a copy of BHN's production volumes BHN FCC001 – 003.

With respect to Verizon Wireless' production, CWA complains that Verizon Wireless provided documents "in formats that CWA so far has been unable to read."³ CWA notes specifically that "90 to 100 files are in '.dbf, .prj, .sbx, .sbn, .shp, .shx' formats that CWA cannot open."⁴ The files that CWA is complaining about appear to be files Verizon Wireless produced in response to Question 5 of the FCC Information Request, which directed Verizon Wireless to "[p]rovide the maps in a geo-referenced format, such as a shapefile (for ArcMap) or table (for MapInfo)."⁵ The files Verizon Wireless provided to CWA comply precisely with this directive. In its March 22, 2012 response to the FCC Information Request, Verizon Wireless noted, specifically with respect to Question 5, that the Company, "[p]ursuant to discussions with FCC staff, . . . is providing 12 coverage maps in shapefiles."⁶ Verizon Wireless also noted "the files are

³ *Id.* at 4.

⁴ *Id.*

⁵ Letter from Rick Kaplan, Chief, Wireless Telecommunications Bureau, to Michael Samscock, Cellco Partnership d/b/a Verizon Wireless, WT Docket No. 12-14, Information and Discovery Request for Verizon Wireless, at 1 (Mar. 8, 2012).

⁶ Response to Information and Discovery Request by Cellco Partnership d/b/a Verizon Wireless, WT Docket No. 12-4, at 9 (Mar. 22, 2012).

provided in 'Coverage' and 'Sites' subdirectories . . . under the directory titled 'Verizon Q5 to 12-4 Info Request--Map Data_HIGHLY_CONFIDENTIAL.'"⁷ Verizon Wireless provided data to CWA in the same format as the data was provided to the FCC, provided the data in one of the specific formats that the FCC requested, clearly documented the file type in its response, placed the files in a directory structure that was descriptive, and used a commonly known file format for which there are free viewers. Verizon Wireless has also confirmed that the files can be opened with MapInfo's shapefile import, so there are no technical problems with the data. Verizon Wireless has additionally responded to numerous questions from CWA's counsel to help them understand the files. CWA's inability to open the files is not the result of any defect in Verizon Wireless' production.

With respect to Comcast's production, CWA complains about the format of the information and the timeliness with which it was produced. First, Comcast produced all information in the format required by the Commission. Consistent with FCC instructions, Comcast made the files available in PDF format because many parties do not have Summation software. When CWA asked for the documents in Summation format, Comcast provided the Summation drive the next day. Notably, CWA waited until April 16 – more than two and half weeks after receiving the PDF copies – to ask for the Summation files. As for timeliness, Comcast initially provided its FCC production to CWA on March 30 – one day after CWA requested it. It similarly provided CWA with the production in Summation format the day after CWA's request. Comcast also responded to numerous questions from CWA's counsel to help them understand Comcast's submission.

An Internet search for the list of file types CWA lists returns, as the first entry, the Wikipedia entry for "Shapefile." *See* <http://www.google.com/search?q=.dbf%2C+.prj%2C+.sbx%2C+.sbn%2C+.shp%2C+.shx&rls=com.microsoft:en-us&ie=UTF-8&oe=UTF-8&startIndex=&startPage=1> (last visited April 23, 2012). As that entry describes, "a shapefile is a popular geospatial vector data format for geographic information systems software," noting that "it is developed and regulated by Esri as a (mostly) open specification for data interoperability" and that "[i]t is now possible to read and write shapefiles using a variety of free and non-free programs." *See* <http://en.wikipedia.org/wiki/Shapefile> (last visited April 23, 2012). For example, ESRI, which created the shapefile format, offers a free ArcGIS Explorer Desktop, "a free GIS viewer that gives you an easy way to explore, visualize, and share GIS information." *See* <http://www.esri.com/software/arcgis/explorer/index.html> (last visited April 24, 2012). The features of ArcGIS Explorer include the ability to add local data "such as . . . shapefiles." *See* <http://www.esri.com/software/arcgis/explorer/key-features.html> (last visited April 24, 2012).

⁷ Response to Information and Discovery Request by Cellco Partnership d/b/a Verizon Wireless, WT Docket No. 12-4, at 9 (Mar. 22, 2012).

With respect to TWC's production, CWA alleges that TWC postponed the provision of documents for two and a half weeks after such documents were requested. This allegation also is without factual basis. In fact, TWC made the requested documents available to CWA on April 3, just three business days after CWA's request. CWA, however, never picked up the prepared documents. In fact, CWA did not contact TWC again until April 9, when CWA apologized for the delay and renewed its request for the documents. TWC then reassembled the requested information and made it available within three business days.

In sum, the facts do not support CWA's allegations. In the few instances where CWA was delayed in accessing any of the productions, the cause lies with CWA, not with the Applicants. Plainly, CWA has provided no basis for stopping the transaction clock or in any way delaying the FCC's review of this transaction.

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This letter is being filed electronically pursuant to Section 1.1206 of the Commission's Rules. Should you have any questions, please contact the Applicants' representatives.

Sincerely,

/s/

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