

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

In the Matter of the Petition of)	
WWC License, LLC dba Verizon Wireless)	TC12-158
and RCC Minnesota, Inc. dba Verizon)	
Wireless of Relinquishment of its)	
Designation as an Eligible)	
Telecommunications Carrier)	

**VERIZON WIRELESS' RESPONSE TO THE COMMENTS
OF THE CROW CREEK TRIBAL UTILITY AUTHORITY**

WWC License, LLC d/b/a Verizon Wireless (“WWC”) and RCC Minnesota, Inc. d/b/a Verizon Wireless (“RCC”) (collectively, “Verizon Wireless”) have petitioned the Commission to relinquish their eligible telecommunications carrier (“ETC”) designations effective December 31, 2012. No party has intervened in this docket and the Commission is scheduled to vote on the request tomorrow, November 20, 2012. Last week, on November 14, the Crow Creek Tribal Utility Authority (“Tribal Authority”) filed comments that did not oppose the ETC relinquishments, but asked the Commission to delay granting them until a plan is in place for another ETC to serve Verizon Wireless customers.

The Commission should not consider the Tribal Authority’s comments because it failed to comply with the Commission’s procedural schedule when it did not intervene by the deadline or request permission to do so afterward. If the Commission does consider the Tribal Authority’s request, the Commission should deny it because there is no reason to believe that any ETC requires additional notice (beyond the more than three months provided in the Petition¹) to purchase or construct facilities to provide service in the areas as to which relinquishment is

¹ Pursuant to A.R.S.D. 20:10:32:48, each incumbent ETC was served with a copy of the Petition. Certificate of Service (Sept. 21 , 2012).

sought (the “Designated Areas”). Any ETC that needed more time could have intervened in this case and requested it, but none did. That is not surprising because Verizon Wireless’ relinquishment will not change the duties those ETCs currently have to serve customers and had prior to the designation of WWC and RCC as ETCs. And because Verizon Wireless will continue to provide the same service and coverage after relinquishment, there should be little if any impact on the remaining ETCs.

The Federal Communications Commission (“FCC”) and ten other state commissions already have approved similar ETC relinquishment requests by Verizon Wireless.² The Commission likewise should grant the Petition and approve the relinquishments effective December 31, 2012.

BACKGROUND

Verizon Wireless filed its Petition for Relinquishment of Eligible Telecommunications Designation (“Petition”) on September 21, 2012. Verizon Wireless seeks relinquishment because its high cost universal service funding is being eliminated at the end of this year under the *Alltel Acquisition Order*.³ The Petition requested that the relinquishments be made effective December 31, 2012, giving more than three months’ notice to other carriers that might be affected. Under the federal standard, relinquishment must be granted because the Designated

² The FCC’s November 16, 2012 order approving Verizon Wireless’ ETC relinquishment in five states is attached as Exhibit A. The Arkansas, Georgia, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Nebraska, Wisconsin and West Virginia commissions also have approved Verizon Wireless’ ETC relinquishments.

³ *Applications of Cellco Partnership d/b/a Verizon Wireless and Atlantis Holdings LLC For Consent to Transfer Control of Licenses, Authorizations, and Spectrum Manager and De Facto Transfer Leasing Arrangements and Petition for Declaratory Ruling that the Transaction is Consistent with Section 310(b)(4) of the Communications Act*, Memorandum Opinion and Order and Declaratory Ruling, 23 FCC Rcd 17444, ¶¶ 192-95 (2008).

Areas will continue to be served by at least one ETC.⁴ Relinquishment may be delayed only if remaining ETCs require more time to purchase or construct facilities to ensure continuing service to the customers of the relinquishing carrier.⁵ As the Petition noted, that is not the case here because Verizon Wireless will continue to offer and provide wireless service in the Designated Areas, its coverage will not be affected, and none of its customers will lose service as a result of the relinquishments.⁶ Moreover, each of the ILEC wire centers covering the Designated Areas will continue to be served by at least one ETC, none of which (to the best of Verizon Wireless' knowledge) will be required to purchase or construct additional facilities to continue providing service there. As an added measure, Verizon Wireless agreed to grandfather the existing Lifeline discount as an equivalent, carrier-provided discount for one year (through December 31, 2013) if the customer chooses to continue as a Verizon Wireless subscriber.⁷

After Verizon Wireless filed the Petition, the Commission docketed the case and required interested parties wanting to participate to intervene by October 12, 2012. No party intervened by the deadline or requested permission to intervene afterward. After discovery was completed, the case was scheduled for the Commission's consideration on November 20.

The Tribal Authority filed its comments on November 14, more than a month after the intervention deadline and less than a week before the Commission was scheduled to vote.⁸ The Tribal Authority asks the Commission to delay approval of the relinquishments until a plan is established that ensures that Verizon Wireless' universal service customers may receive service

⁴ See 47 U.S.C. § 214(e)(4) ("A State commission [...] shall permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier").

⁵ *Id.* (only basis for delay in approval is to "ensure that all customers served by the relinquishing carrier will continue to be served" by requiring "sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunication carrier").

⁶ See Petition at 5.

⁷ Verizon Wireless has fewer than twenty Lifeline customers in all of South Dakota.

⁸ The Tribal Authority filed its comments on the same day the Commission's November 20 agenda was published.

from another carrier. The Tribal Authority also requests that Verizon Wireless provide an analysis of whether its universal service customers on the Crow Creek reservation may be served by the remaining ETC on the reservation and a comparison of Verizon Wireless' current Lifeline offering and the grandfathered Lifeline offering it will provide after relinquishment. Even if the Commission decides to consider the Tribal Authority's unauthorized comments (which it should not), the Commission should deny its request because the Tribal Authority fails to show that any ETC will need time to purchase or construct facilities before the relinquishments become effective.

THE PETITION SHOULD BE GRANTED

A. **The Tribal Authority's Comments Should Not Be Considered Because It Failed to Intervene by the Deadline or Request Permission to Intervene Afterward**

The Commission required any party to intervene in this case by October 12, 2012. The Tribal Authority did not intervene by the deadline and has not requested permission to intervene since then.⁹ Even if the Commission were to read the comments filed by the Tribal Authority as requesting intervention (which it should not), the Tribal Authority should not be allowed to intervene because it fails to demonstrate that any statute establishes it as an interested person or that the outcome would have an impact on it specially.¹⁰ Further, if the Commission were to allow late intervention, prejudice could result to Verizon Wireless if the intervention postpones the Commission's decision.¹¹ Because the Tribal Authority is not a party to this case, it is not entitled to participate and its comments should not be considered.

⁹ See ARSD 20:10:01:15.02.

¹⁰ See ARSD 20:10:01:15.05.

¹¹ See ARSD 20:10:01:15.02.

B. Because at Least One Other ETC Serves Each of the Designated Areas, Relinquishment of Verizon Wireless' ETC Designations Must Be Approved

Federal law requires the Commission to permit the relinquishment of an ETC designation in any area served by at least one other ETC.¹² As stated in 47 U.S.C. § 214(e)(4):

A State commission [...] shall permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier. An eligible telecommunications carrier that seeks to relinquish its eligible telecommunications carrier designation for an area served by more than one eligible telecommunications carrier shall give advance notice to the State commission [...] of such relinquishment. Prior to permitting a telecommunications carrier designated as an eligible telecommunications carrier to cease providing universal service in an area served by more than one eligible telecommunications carrier, the State commission [...] shall require the remaining eligible telecommunications carrier or carriers to ensure that all customers served by the relinquishing carrier will continue to be served, and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier.¹³

It is undisputed that more than one ETC serves each of the Designated Areas.¹⁴ The Tribal Authority does not contest this fact and even acknowledges that another ETC serves the Crow Creek reservation.¹⁵ As a matter of law, therefore, the relinquishments must be granted.

C. The Commission Should Not Delay the Relinquishments

The only permissible ground for delaying the relinquishment of an ETC designation is to “ensure that all customers served by the relinquishing carrier will continue to be served” by requiring “sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier.”¹⁶ In this case, Verizon Wireless’ customers will continue to be served because Verizon Wireless is not withdrawing its service – it will continue to offer and provide wireless service in the Designated Areas. The Tribal Authority misses the

¹² 47 U.S.C. § 214(e) (4); 47 C.F.R. § 54.205.

¹³ Emphasis added.

¹⁴ See Petition at 5 & Exh. A.

¹⁵ Tribal Authority Comments at 3. In fact, two ETCs serve parts of the reservation, covering it entirely.

¹⁶ 47 U.S.C. § 214(e)(4).

point when it argues that Verizon Wireless' service will somehow be diminished because it will no longer have ETC obligations.¹⁷ Verizon Wireless' continuing service is relevant here because it means the remaining ETCs will not require additional time to purchase or construct additional facilities to serve these areas. And to the best of Verizon Wireless' knowledge, none of the remaining ETCs – which already have a duty to serve these areas today – will need to make such purchases or undertake such construction. Indeed, if an ETC were concerned that it needed more time, presumably it would have intervened in this case and requested it, but no ETC saw the need to do so. Finally, the Tribal Authority does not point to any customer on the Crow Creek reservation or elsewhere for whom an ETC would have to build out its facilities. Although the Tribal Authority claims there are “vast geographic *areas*” on the Crow Creek reservation without wireline service,¹⁸ it does not point to a single *customer* that could not be served by an ETC today, much less by December 31, 2012. Its request for delay therefore must be rejected.

The Tribal Authority asks that Verizon Wireless be required to provide an analysis of whether its universal service customers, including Lifeline customers, are able to obtain similar service from the remaining ETCs on the reservation. Such a study is not necessary because each of these customers may continue to receive service from Verizon Wireless after it relinquishes its ETC designations and the one Lifeline customer on the reservation may continue to receive a discount equivalent to the Lifeline discount through December 31, 2013. Moreover, as the Tribal Authority acknowledges, another ETC¹⁹ serves the reservation and thus will have a duty to serve these customers, including the one Verizon Wireless Lifeline customer. The ETCs serving the reservation have not sought to intervene here and therefore have judged that they do

¹⁷ Conversely, the Tribal Authority suggests that Verizon Wireless has not been honoring its ETC obligations (Tribal Authority Comments at 1), which is both careless and wrong.

¹⁸ Tribal Authority Comments at 3 (emphasis added).

¹⁹ As noted above, the reservation actually is served by two ETCs, which cover it entirely.

not require additional time to purchase or construct facilities to meet their ETC obligations after December 31, 2012. Those ETCs are in a much better position than Verizon Wireless to make this assessment.

The Tribal Utility misapprehends Verizon Wireless' commitment to voluntarily provide an equivalent monthly discount to current Lifeline subscribers that wish to remain on the Verizon Wireless Lifeline service plan through December 31, 2013. To be clear, the rate, terms and conditions of service for these current Lifeline customers – including the one Lifeline customer on the Crow Creek reservation – will not change. Verizon Wireless will continue to provide service to these customers under the same grandfathered terms and conditions through December 31, 2013. And because the monthly discount will no longer be provided as a government benefit, the only difference these customers will experience is that they will not be required to verify compliance with the federal Lifeline criteria to remain eligible for the voluntary discount. Stated otherwise, Verizon Wireless' current Lifeline customers can rest assured the same discount, rates, terms and conditions will remain in place through December 31, 2013 without any further action on their part.

CONCLUSION

For the foregoing reasons, Verizon Wireless respectfully requests that the Commission approve the relinquishment of its ETC designations effective December 31, 2012.

Dated: November 19, 2012

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Respectfully submitted,



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Telecommunications Carrier Designations)

TC12-158

CERTIFICATE OF SERVICE

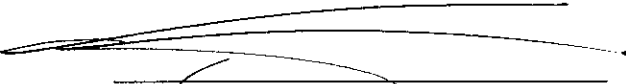
I hereby certify that on the 19th day of November, 2012 I served a copy of WWC License, LLC and RCC Minnesota, Inc.'s Petition for Relinquishment of ETC Designation electronically to:

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