

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

IN THE MATTER OF THE PETITION OF)
CELLCO PARTNERSHIP AND ITS)
SUBSIDIARIES AND AFFILIATES TO) TC10-090
AMEND AND CONSOLIDATE ELIGIBLE)
TELECOMMUNICATIONS CARRIER)
DESIGNATIONS IN THE STATE OF)
SOUTH DAKOTA AND TO PARTIALLY)
RELINQUISH ETC DESIGNATION)

**REPLY BRIEF ON MOTION TO COMPEL DISCOVERY RESPONSES FROM JAMES
VALLEY WIRELESS**

Cellco Partnership d/b/a Verizon Wireless (“Cellco”), on behalf of itself and its subsidiaries and affiliates offering commercial mobile radio services (“CMRS”) in the State of South Dakota (collectively, “the Petitioners”), and pursuant to A.R.S.D. 20:10:01:22.01 and SDCL 15-6-37(a), have moved to compel intervenor James Valley Wireless, LLC (“James Valley Wireless”) to respond to certain discovery requests.

James Valley Wireless’ Opposition to the motion to compel (“Opposition”) consists of only one argument. According to James Valley Wireless, “Commission determination of the qualifications of [the Petitioners] to be an ETC is not a comparative exercise between [the Petitioners], on the one hand, and James Valley Wireless and other CETCs, on the other hand.” Opposition at 1. This is James Valley Wireless’ sole defense for failing to produce each of the four categories of information sought by the Petitioners: (1) information about the process for responding to requests for service; (2) confidentially-filed ETC compliance documents; (3) the amount of federal universal service support James Valley Wireless anticipates receiving; and (4) James Valley Wireless’ subscriber line count reports.¹

James Valley Wireless’ argument is absolutely wrong. James Valley Wireless has made clear, through its discovery requests to the Petitioners, through its pre-filed testimony of Peter

¹ James Valley Wireless has apparently abandoned its meritless confidentiality objections.

Bluhm, and through its arguments to the Commission, that it intends to challenge the Petition in at least two ways: (1) James Valley Wireless questions Petitioners' satisfaction of some or all of the eligibility requirements for designation as a federal ETC; and (2) James Valley Wireless' receipt of high-cost universal service support ("USF") allegedly has been impaired or will be impaired by Petitioners' past actions or by granting of the Petition. By making these challenges, James Valley Wireless has opened itself to discovery on these issues. Petitioners are entitled to use evidence about other South Dakota ETCs' satisfaction of applicable ETC requirements and practices to demonstrate, by comparison, Petitioners' own satisfaction of those requirements. As to James Valley Wireless' claims relating to the alleged effect of the approval of the Petition on the distribution of USF to competitive ETCs, Petitioners intend to use James Valley Wireless' own information to demonstrate that James Valley Wireless' claims have no factual basis.

In sum, Petitioners' motion to compel is the result of James Valley Wireless' attempt to place Petitioners in an impossible position: James Valley Wireless attacks Petitioners, but refuses to provide information which Petitioners could use to defend themselves. There is no legitimate justification for James Valley Wireless' failure to respond to Petitioners' discovery requests. The Commission should compel James Valley Wireless to respond to Petitioners' discovery requests so that Petitioners have a fair opportunity to discover facts as necessary to present a full defense to James Valley Wireless' allegations and arguments.

Dated: May 2, 2011

Respectfully submitted,

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By 
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SUBSIDIARIES AND AFFILIATES*

CERTIFICATE OF SERVICE

THE UNDERSIGNED CERTIFIES THAT ON THE 2ND DAY OF MAY, 2011, I SERVED A TRUE AND CORRECT COPY OF CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS'S REPLY BRIEF ON MOTION TO COMPEL DISCOVERY RESPONSES FROM JAMES VALLEY WIRELESS IN THE ABOVE-ENTITLED MATTER, VIA ELECTRONIC MAIL TO:

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