

UNITED STATES COURT OF APPEALS  
FOR DISTRICT OF COLUMBIA CIRCUIT

FILED

SEP 10 2007

IN THE UNITED STATES COURT OF APPEALS  
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CLERK  
CELLCO PARTNERSHIP  
d/b/a/ VERIZON WIRELESS,

Petitioner,

v.

FEDERAL COMMUNICATIONS COMMISSION  
and  
UNITED STATES OF AMERICA,

Respondents.

Case No. 07-1359

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PETITION FOR REVIEW

Pursuant to 47 U.S.C. § 402(a), 28 U.S.C. §§ 2112, 2342(1), and 2344, and Rule 15(a) of the Federal Rules of Appellate Procedure, Cellco Partnership d/b/a Verizon Wireless (“Verizon Wireless”) hereby petitions the Court for review of the final order of the Federal Communications Commission (the “Commission” or the “FCC”), captioned *Service Rules for the 698-746, 747-762 and 777-792 MHz Bands*, Second Report and Order, FCC 07-132, WC Docket No. 06-150, which the Commission adopted on July 31, 2007 and released on August 10, 2007 (“*Report and Order*”). The Commission published the *Report and Order* in the Federal Register on August 24, 2007, *see* 72 Fed. Reg. 48814-01. A copy of the full text of the *Report and Order* is attached as EXHIBIT A to this Petition for Review.

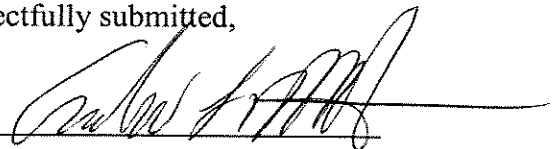
This Petition for Review is timely pursuant to 47 U.S.C. § 402(a) and 28 U.S.C. § 2344. This Petition for Review is also filed within the 10-day period prescribed for participation in any lottery conducted pursuant to 28 U.S.C. §§ 2112 and 47 C.F.R. § 1.13(a)(1). Venue is proper in this Court pursuant to 28 U.S.C. § 2343.

Verizon Wireless seeks judicial review on the grounds that the *Report and Order* exceeds the Commission's authority under the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, *et. seq.*, violates the United States Constitution, violates the Administrative Procedure Act, 5 U.S.C. § 701 *et. seq.*, and is arbitrary, capricious, unsupported by substantial evidence and otherwise contrary to law. Verizon Wireless challenges that part of the *Report and Order* which adopts what the Commission refers to as an "Open Platforms for Devices and Applications" mandate as part of the service rules for the C Block of spectrum in the upcoming 700 MHz auction.

Accordingly, Verizon Wireless respectfully requests that this Court hold unlawful, vacate, enjoin, and set aside the challenged portion of the *Report and Order*, and provide such additional relief as may be appropriate.

Respectfully submitted,

By: \_\_\_\_\_



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Dated: September 10, 2007

## **CORPORATE DISCLOSURE STATEMENT**

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure and Circuit Rule 26.1, Cellco Partnership d/b/a Verizon Wireless submits the following corporate disclosure statement:

Cellco Partnership d/b/a Verizon Wireless ("Cellco") is a general partnership formed under the laws of the State of Delaware. Cellco has seven partners in total. Verizon Communications Inc. and Vodafone Group Plc. indirectly own a 55% and 45% interest, respectively. The following is a listing of partners:

### **Bell Atlantic Cellular Holdings, L.P., One Verizon Way, Basking Ridge, NJ 07920-1097**

- a Delaware limited partnership with its principal place of business in New Jersey
- Composed of:
  - Bell Atlantic Personal Communications, Inc. a Delaware corporation with its principal place of business in New Jersey
  - Bell Atlantic Mobile Systems, Inc. a Delaware corporation with its principal place of business in New Jersey

### **NYNEX PCS Inc., One Verizon Way, Basking Ridge, NJ 07920-1097**

- a Delaware corporation with its principal place of business in New Jersey

### **PCSCO Partnership, One Verizon Way, Basking Ridge, NJ 07920-1097**

- a Delaware general partnership with its principal place of business in New Jersey
- composed of:

- Bell Atlantic Cellular Holdings, L.P. (see above)
- NYNEX PCS Inc. (see above)
- Metro Mobile CTS of Charlotte, Inc., a Virginia corporation with its principal place of business in New Jersey
- Bell Atlantic Personal Communications, Inc., a Delaware corporation with its principal place of business in New Jersey.

**GTE Wireless Incorporated, One Verizon Way, Basking Ridge, NJ 07920-1097**

- a Delaware corporation with its principal place of business in New Jersey

**GTE Wireless of Ohio Incorporated, One Verizon Way, Basking Ridge, NJ 07920-1097**

- a Delaware corporation with its principal place of business in New Jersey

**PCS Nucleus, L.P., Denver Place, South Tower, 999 – 18<sup>th</sup> Street, Suite 1750, Denver, CO 80202**

- a Delaware limited partnership with its principal place of business in Colorado
- Composed of:
  - Vodafone Holdings LLC (general partner), a Delaware limited liability company with its principal place of business in Colorado
  - Vodafone Americas Inc. (formerly AirTouch Communications, Inc.), a Delaware corporation with its principal place of business in Colorado

**JV PartnerCo, LLC, Denver Place, South Tower, 999 – 18<sup>th</sup> Street, Suite 1750, Denver, CO  
80202**

- a Delaware limited liability company with its principal place of business in Colorado
- whose sole member is Vodafone Americas Inc.

Verizon Communications Inc. has its principal place of business at 140 West Street, New York, New York and Vodafone Group Plc has its principal place of business at The Connection, Vodafone House, Newbury, Berkshire, United Kingdom. Both Verizon Communications Inc. and Vodafone Group Plc. are publicly traded companies.

# EXHIBIT A

**CERTIFICATE OF SERVICE**

I, Andrew G. McBride, hereby certify that on September 10, 2007, I caused a copy of the foregoing Petition for Review to be delivered to the parties on the attached service list by the manner indicated on the attached service list.



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**SERVICE LIST**

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