

United States Senate

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COMMITTEES:

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ENERGY AND NATURAL RESOURCES

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HEALTH, EDUCATION, LABOR,
AND PENSIONS

VETERANS' AFFAIRS

October 29, 2007

The Honorable Kevin J. Martin
Chairman
Federal Communications Commission
445 - 12th Street, SW
Washington, D.C. 20554

Dear Chairman Martin:

I am writing to express my very serious concerns with Verizon Wireless' proposed acquisition of Rural Cellular Corporation, which operates Unicel in Vermont. Because this acquisition falls within the FCC's jurisdiction, I wanted to alert you and your fellow commissioners so you may consider these concerns as you determine whether the proposal is in the public interest, and in particular, the interest of the citizens of Vermont. As a preliminary matter, due to the complex issues involved in the proposed acquisition I request that you extend the Petitions to Deny deadline another 90 days so that comments can be submitted by all affected and interested parties.

As you are well aware, universal, competitively-priced cell phone service is rapidly becoming a service as essential as electricity and traditional telephones in our ever more technology-dependent economy. Indeed, communities that lack reliable cell phone service are disadvantaged economically and socially, and their ability to respond to public safety emergencies is weakened, to name only a few of the challenges. Unfortunately, one need only travel minutes from Burlington – Vermont's largest city – to lose cell phone service, and throughout the remainder of the state, cell phone coverage is spotty at best. Viewed in this context, Verizon Wireless' proposed acquisition of Unicel will have a substantial impact on the economic health of communities across Vermont. In addition, fourteen other states would be adversely affected if this acquisition was to go through as proposed and the concerns expressed herein may well apply to some of them as well. Therefore, the FCC may want to consider if and how the concerns expressed herein are relevant to communities in other states.

If the Verizon Wireless-Unicel acquisition is approved, Verizon Wireless would become a de facto monopoly in the State of Vermont. Beyond the anti-trust implications, the creation of a monopoly provider, absent any obligation or enforceable commitment on the part of Verizon Wireless to extend 100 percent geographic wireless phone coverage in Vermont, will likely leave large tracts of the state with unreliable coverage or none at all for the foreseeable future.

Vague promises about undetermined build-outs over some extended future time period will not meet the real-world needs of Vermont businesses and consumers. If Verizon Wireless wants

approval to create a near cell phone monopoly in Vermont, it should also assume the responsibility for making its service available on reasonable terms to all Vermonters.

Under this proposed acquisition, Verizon Wireless' ability to enforce its near monopoly position in Vermont will be quite strong. As you know, among the major national cell phone providers, Verizon Wireless' network is one of a limited number that employs CDMA technology. Unicel, and a number of other providers such as AT&T, the number one carrier in the United States, and T-Mobile, the number four carrier, use the GSM technology standard. Unicel is currently the only provider in Vermont using a GSM network. In my conversations with Verizon Wireless representatives, they indicated that under this proposed acquisition, Verizon Wireless would only commit to support existing GSM assets in the state for 18 months. Absent conditions imposed on this transaction, there is every reason to believe that no GSM-compatible equipment will be installed in any new Verizon Wireless-controlled or constructed towers or cell sites in Vermont. That means that any GSM-based competitor that wished to enter Vermont would have to build every bit of physical infrastructure from scratch. The result will be that Verizon Wireless' monopoly will not only be effective, but indefinite.

In addition, once the 18 month period passes, current GSM users may have no service access at all. This not only affects Vermonters currently receiving service through Unicel who might be expected to convert to a Verizon Wireless CDMA cell phone, but also those who may have service through a different GSM-based provider that roams on the Unicel network. Equally troubling, business and vacation travelers to Vermont who rely on GSM technology will find themselves with substandard or non-existent cell service as Unicel's GSM network is what makes it possible for the millions of GSM phones in the United States to work in Vermont. Vermont's economy could be severely disadvantaged when tourists or prospective businesses find their cell service curtailed or very costly due to roaming charges. That is why the GSM network needs to be maintained, upgraded, and expanded in perpetuity by Verizon Wireless or sold to another party that will commit to the same. Furthermore, a requirement for reasonable data and voice automatic roaming rates on both the GSM and CDMA networks would be crucial so as to inject some level of competition into this near monopoly environment and provide some level of fairness for non-Verizon Wireless customers.

I am also concerned that while Verizon Wireless representatives have indicated to me that they will offer free basic handsets to all Unicel customers, this does not address what will happen to those customers with more advanced phones operating on GSM. They will have to pay significant costs to get a comparable phone that works on the CMDA network.

Given the concerns I have expressed about the proposed Verizon Wireless acquisition of Unicel, this transaction should only be approved if the following conditions, at a minimum, are imposed and met:

- 1) Enforceable commitment to provide 100 percent geographic coverage in the State of Vermont within a reasonable time frame (30 months maximum);
- 2) Extension of Verizon Wireless' commitment to maintain, upgrade, and expand the GSM network indefinitely or a requirement that the GSM assets (including network and spectrum assets) be sold to a provider who will;

- 3) Free exchange of Unice! customers' phones for equivalent Verizon wireless handsets; and
- 4) Enforceable commitment to provide automatic roaming services at reasonable rates for voice and data (including wireless broadband) to other GSM or CDMA carriers.

In closing, let me say that in the interest of addressing the most important issues facing Vermont in connection with this proposed transaction, I have detailed only my major concerns. One issue that appears to have been resolved relates to the pricing of cell and data service in Vermont. Verizon Wireless representatives have indicated to me that the company has a long-term commitment to maintaining its nationwide pricing scheme. In the absence of such a commitment in writing, I would have serious concerns about the impact of the proposed acquisition on the pricing of cell and data service in Vermont. I trust Verizon Wireless will have no problem providing a written confirmation to the FCC of this verbal commitment. If they cannot, I will request that this transaction be conditioned on price commitments.

Thank you for your consideration. Due to the pending deadline for Petitions to Deny, I respectfully request a response from you by November 5, 2007. I also ask that you please keep me informed of the steps you will take to conduct a thorough review of this proposed acquisition and that you include this letter in the WT Docket No. 07-208.

If you have any questions or require additional information, feel free to contact me or have your staff contact Janko Mitric in my office at (202) 224-5141.

Sincerely,


BERNARD SANDERS
United States Senator

cc: Michael J. Copps, FCC Commissioner
Jonathan S. Adelstein, FCC Commissioner
Deborah Taylor Tate, FCC Commissioner
Robert M. McDowell, FCC Commissioner