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September 23, 2005

Ms. Beth O'Donnell, Executive Director
Public Service Commission
211 Sower Blvd.
Frankfort, KY 40602-0615

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SEP 26 2005

PUBLIC SERVICE
COMMISSION

RE: **Applicant's Reply to Motion for Hearing and Response to Motion to
Schedule Hearing after Return to United States of Major Jeffrey Stevens
PSC Case No. 2004-00508 (Renfro II Site)**

Dear Ms. O'Donnell:

Enclosed please find the original and ten copies of the above-referenced Motion. Please file same with the Commission at your earliest convenience. Thank you for your assistance in this matter.

Sincerely,



W. Brent Rice

WBR/dkw
Enclosures

cc: Amy Inman/Verizon Wireless

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

SEP 26 2005

PUBLIC SERVICE
COMMISSION

In the matter of:

APPLICATION OF CELLCO PARTNERSHIP)
D/B/A VERIZON WIRELESS FOR ISSUANCE)
OF A CERTIFICATE OF PUBLIC CONVENIENCE) Case No. 2004-00508
AND NECESSITY TO CONSTRUCT AN)
ADDITIONAL CELL FACILITY ON BURDETTE)
ROAD, RENFRO VALLEY, ROCKCASTLE,)
KENTUCKY (“RENFRO II CELL FACILITY”))

*** **

APPLICANT’S REPLY TO MOTION FOR HEARING

AND

**RESPONSE TO MOTION TO SCHEDULE HEARING AFTER RETURN TO
UNITED STATES OF MAJOR JEFFREY STEVENS**

Comes now the Applicant Cellco Partnership d/b/a Verizon Wireless (“Applicant”) for its Reply to its Motion for a Hearing and its Response to Interveners’ motion to schedule hearing after Major Jeffrey Steven returns to the United States. In support of thereof, Applicant states as follows:

In response to the Applicant’s Motion for a Hearing, on September 21, 2005, Interveners Loretta S. Rowe and Major Jeffery Stevens (“Interveners”) filed a joint Memorandum opposing the hearing or, in the alternative, to schedule the hearing after Major Stevens returns to the United States. The sole basis for this opposition is their (mistaken) reading of the Commission’s May 26, 2005 Order.

As an initial matter, the May 26th Order does not concern nor address Intervener Loretta S. Rowe’s rights or interests in this matter or otherwise provide any basis for her

to oppose a hearing on the merits. Having raised no substantive or procedural basis to object, Loretta Rowe “has no dog in this fight.” Rather, Applicant would submit this is merely further evidence of her intent to unnecessarily delay this proceeding. Accordingly, Intervener’s Rowe’s objections should be overruled, as she lacks any substantive or procedural grounds to oppose the scheduling of a hearing by the Commission.¹

Second, in regards to Major Stevens, counsel for Intervener Stevens misunderstands the Commission’s May 26th Order. Citing Paragraph 2 of the Order, Major Stevens argues “the Commission properly has delayed scheduling any hearing pending his return from Kuwait.” [Response, at 1] Yet, the Commission’s Order states, at Paragraph 2:

Major Stevens shall be entitled to the full rights of a party and shall be served with the Commission’s Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by the parties after the date of this order.

[May 16, 2005 Order, ¶ 2] Nothing in this Paragraph, or any other provision of that Order, delayed the scheduling of any hearing on this matter pending Major Stevens’ return.

In fact, the (second scheduled) Informal Conference was noticed for June 2, 2005, approximately a week after the Commission’s Order. If it were not for Intervener’s counsel’s request that the hearing be “postponed temporarily”, because she would be out of the country from June 1 through June 12 (and not because Major Stevens was in Kuwait), the Commission would have heard this matter on June 2nd.² In other words,

¹ Nonetheless, in order to avoid confusion, “Intervenors” (plural) will be referred to herein in order to refer to the responding parties.

² It is interesting to note that although Intervenors’ counsel requested a mere “temporary” continuance in May 2005, see May 30, 2005 letter from Rachel Rowe, she has not since indicated any dates for which she would be available for a hearing, indicating that her request was more “permanent” than

although the Commission permitted Major Stevens to intervene on May 26th and granted him full rights as a party, the Commission would not have continued or delayed that hearing simply because Major Stevens was in Kuwait at that time. Rather, it was only upon Interveners' counsel's (second) request to continue the matter that the Commission graciously *temporarily* postponed this matter. Thus, considering the previous hearing would have been held regardless of Major Steven's being overseas in Kuwait, the instant request for a hearing should also not be impacted by his physical absence.

Although counsel for Major Stevens asserts that he is scheduled to return "in or about December 2005," no evidence was introduced in support of that assertion. Thus, there is no way to ascertain when Major Stevens is actually schedule to return. Further, there is the possibility that, even if he is scheduled to return in December 2005, his tour in Kuwait could be extended into 2006 or he could be redeployed to another area, like Mississippi, Louisiana or Texas. In other words, there is no assurance that Major Stevens would even be present for a hearing in or shortly after December 2005.

Applicant appreciates and respects Major Stevens' commitment to serving in the military and thanks him for such service. However, military service, whether at home or abroad, is simply insufficient grounds to argue that the Commission should deny Applicant its statutorily-guaranteed administrative hearing before the Commission on this matter. See KRS Chapter 278. Instead, faced with the Applicant's request for a definitive and expedient hearing date, Interveners come up with yet another excuse in an attempt to delay a hearing on the instant Application. Moreover, despite the Applicant's guarantee of a hearing before the Commission, the Interveners failed to cite or rely upon

"temporary". Faced with the instant motion, Interveners now seek further delay, contrary to the position their counsel took in her May 30, 2005 correspondence.

any authority in support of their opposition or otherwise indicate why Applicant's rights should otherwise be suppressed and denied.

Applicant would submit that the Interveners' memorandum in opposition comports with the Interveners' scheme of delay throughout this litigation - at every opportunity for a hearing before the Commission, Interveners have raised some objection and sought further delay of resolution of the Application's merits.

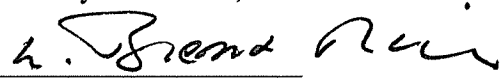
Finally, Major Stevens is represented by competent counsel in this matter, who, Applicant understands, bears some relationship with Major Stevens. His rights are well protected and he has been given leave to respond appropriately to the Application and present any objections thereto by counsel. Same counsel represents other Interveners as well, and their issues/objections which will be presented are substantially similar in nature to Major Stevens' issues/objections. As such, Applicant submits that Major Stevens' interests are well-protected and ensured and, therefore, there is no reason to deny or further delay a hearing on this matter. Thus, Interveners have run out of options to further delay this proceeding, and cites to the Commission's Order for instructions it does not contain.

As noted before, the instant Application has been pending well over one (1) year.³ If the sought continuance is granted yet again, the instant Application would not be resolved until over eighteen months after its filing. Such extreme delay and untimely resolution were not within the contemplation of the Applicant's right to a quick and expedient administrating hearing.

³ Applicant would also point out that Major Stevens did not seek leave to intervene in this action until March 2005, over six (6) months after the Application was filed. Notwithstanding this untimely appearance, the Commission granted his request to intervene. It is now this belated Intervener who further seeks to delay this matter.

Wherefore, the Applicant respectfully petitions the Commission to GRANT the instant Motion for Hearing, to DENY the Interveners' request for untimely delay and to set a date and time for a Hearing on the instant Application.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "W. Brent Rice", written over a horizontal line.

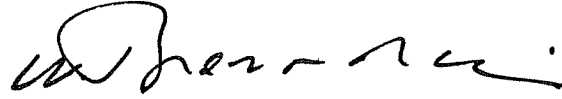
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COUNSEL FOR CELLCO
PARTNERSHIP d/b/a
VERIZON WIRELESS

CERTIFICATE OF SERVICE

I certify to mailing a true and accurate copy of the foregoing, prepaid, first-class United States post, this *23rd* day of September, 2005, to the following:

Ms. Rachael A. Rowe
Keating Muething & Klekamp, PLLC
One East Fourth Street
Suite 1400
Cincinnati, Ohio 45202-3752



W. Brent Rice

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