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April 30, 2007

Honorable Pat Miller, Hearing Officer
c/o Sharla Dillon, Docket & Records Manager
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

**RE: In the Matter of: Tennessee Rural Independent Coalition Petition for
Suspension and Modification Pursuant to 47 U.S.C. Section 251(f)(2)
TRA Docket No. 06-00228**

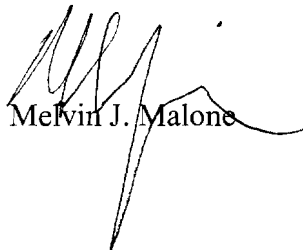
Dear Hearing Officer Miller:

Enclosed for filing please find the original and thirteen (13) copies the *CMRS Providers' Response in Opposition to Petition for Reconsideration of Order Granting, In Part, CMRS Providers' Motion to Compel*.

An additional copy of this filing is enclosed to be "File Stamped" for our records.

If you have any questions or require additional information, please let me know.

Very truly yours,



Melvin J. Malone

cc: Parties of Record

**BEFORE THE
TENNESSEE REGULATORY AUTHORITY**

original

In the Matter of:

**Tennessee Rural Independent
Coalition Petition for Suspension
and Modification Pursuant to 47
U.S.C. Section 251(f)(2)**

Docket No. 06-00228

**CMRS PROVIDERS' RESPONSE IN OPPOSITION TO PETITION FOR
RECONSIDERATION OF ORDER GRANTING, IN PART,
CMRS PROVIDERS' MOTION TO COMPEL**

Verizon Wireless, New Cingular Wireless PCS, LLC d/b/a Cingular Wireless¹; Sprint Spectrum L.P. d/b/a Sprint PCS; and T-Mobile USA, Inc., (collectively referred to herein as “the CMRS Providers”) respectfully submit this Response in Opposition to Petition for Reconsideration of Order Granting, in Part, CMRS Providers’ Motion to Compel. For the reasons set forth below, the CMRS Providers ask the Tennessee Regulatory Authority (“Authority” or “TRA”) to deny the Petition for Reconsideration.²

I.

BACKGROUND

In this proceeding, the Tennessee Rural Independent Coalition (“Coalition”) has sought a waiver or suspension of its members’ obligations to produce TELRIC studies in support of

¹ New Cingular Wireless PCS, LLC is a subsidiary of AT&T Mobility LLC.

² For their cause, the CMRS Providers also rely, as if set forth fully herein, on the grounds contained in the *CMRS Providers’ Motion to Compel*, TRA Docket No. 06-00228 (April 9, 2007).

transport and termination rates to be set in a related arbitration docket (TRA Consolidated Docket No. 03-00585). On February 26, 2007, the TRA established a Procedural Schedule to determine the merits of the Coalition's Petition. The schedule contemplates discovery by the CMRS Providers on the issues raised by the Coalition's Petition, as well as a hearing on the merits. Pursuant to the Procedural Schedule, the CMRS Providers served interrogatories and requests for production of documents upon the Coalition, inquiring about the financial resources of the Coalition members (in relation to the alleged burdensome cost of TELRIC studies), and about the availability of necessary cost data (in relation to the alleged burden of collecting such data). The Coalition objected to the bulk of these requests. As a result, the CMRS Providers respectfully submitted a motion to compel.

On April 23, 2007, the Hearing Officer issued the *Order Granting, in Part, CMRS Providers' Motion to Compel* (the "Order"). In the *Order*, the Hearing Officer denied the CMRS Providers' Motion to Compel with respect to Interrogatory No. 1, but granted the CMRS Providers' Motion to Compel with respect to Request for Production of Documents Nos. 1 and 2; Interrogatory Nos. 2 and 7; and Request for Production of Documents No. 7. Further, the Hearing Officer granted, in part, the motion with respect to Interrogatory No. 5(a).

On April 27, 2007, the Coalition submitted its *Petition for Reconsideration of Order Granting, in Part, CMRS Providers' Motion to Compel Issued April 23, 2007, and Addendum Thereto* (the "Petition").

II.

ARGUMENT

Under TRA Rules, Chapter 1220-1-2-.11, discovery in a contested case "shall be sought and effectuated in accordance with the Tennessee Rules of Civil Procedure." Under Tenn. Civ.

Proc. Rule 26.02(1), "Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action . . ." As the Authority has long and often acknowledged, the phrase "relevant to the subject matter involved in the pending action" has been construed to encompass any matter that bears on, or that reasonably could lead to other matters that could bear on, any issue that is or may be in the case.³ In fact, relying on well-established Tennessee precedent, the agency has noted on too many occasions to number that relevancy is "more loosely construed during discovery than it is at trial."⁴

The Coalition has not interposed any claim of privilege in objecting to the *Order*. In fact, the Coalition does not contend, in its *Petition*, that the Hearing Officer erred in finding the requests at issue relevant for discovery purposes. Rather, the Coalition maintains, as it did in its initial objections to the CMRS Providers' discovery requests and in its opposition to the CMRS Providers' Motion to Compel, that complying with the *Order* will take a significant amount of manpower and time.⁵ In the alternative, the Coalition requests more time to comply with the *Order*, specifically up to and including May 4, 2007.

As set forth in the CMRS Providers' Motion to Compel, and as resolved in the *Order*, the discovery requests at issue are relevant and are not unduly burdensome. Moreover, the CMRS Providers have already voluntarily agreed to the Coalition's alternative request for relief – an

³ See, e.g., *Order Granting Motions to Compel in Part and Denying in Part*, TRA Docket No. 03-00118 at 2 (April 25, 2003) (quoting *Boyd v. Comdata Network, Inc.*, 88 S.W.3d 203, 220 n. 25 (Tenn. Ct. App. 2002)). See also *Price v. Mercury Supply Co.*, 682 S.W.2d 924 (Tenn. Ct. App. 1984).

⁴ See, e.g., *Order Resolving Discovery and Protective Order Disputes and Requiring Filings*, TRA Docket No. 05-00258 at 4 (June 14, 2006) (quoting *Boyd*, 88 S.W.3d at 220 n. 25); and *Order Denying the Request for Reconsideration of 'Order Granting Motion to Compel' Issued June 17, 2004 by the Pre-Arbitration Officer, In Re: Petition for Arbitration of Celco Partnership d/b/a Verizon Wireless*, TRA Consolidated Docket 03-00585, p. 11 (Feb. 14, 2005) (quoting *Price*, 682 S.W.2d at 935).

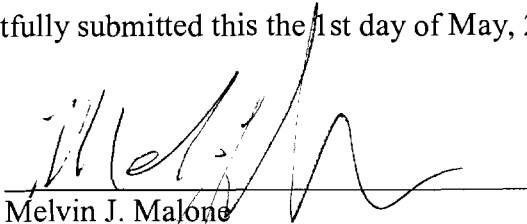
extension up to and including May 4, 2007, at 2:00 p.m. to comply with the *Order*.⁶ Since the *Petition* cited no new grounds for overturning the *Order* not previously considered by the Hearing Officer, and since the alternative request has been satisfied, the CMRS Providers oppose the *Petition* and assert that it should be summarily denied.

III.

CONCLUSION

For the foregoing reasons, the CMRS Providers oppose the Coalition's *Petition for Reconsideration* and respectfully request that the Authority summarily deny the same.

Respectfully submitted this the 1st day of May, 2007.



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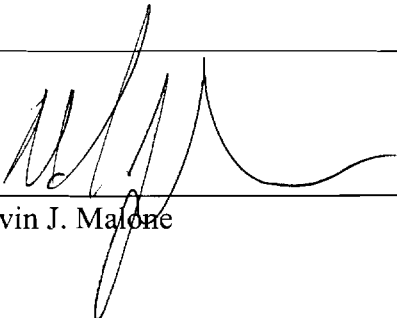
Attorneys for AT&T Mobility

CERTIFICATE OF SERVICE

I hereby certify that on May 1, 2007, a true and correct copy of the foregoing has been served on the parties of record, via the method indicated:

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