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November 15, 2007

ELECTRONICALLY

Honorable Eddie Roberson, Chairman
c/o Sharla Dillon, Docket & Records Manager
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

filed electronically in docket office on 11/16/07

**RE: IN RE: CITIZENS TELECOMMUNICATIONS COMPANY OF
TENNESSEE'S PROPOSED TARIFF NO. 20070432 TO GENERAL
CUSTOMER SERVICES TARIFF REGARDING CHARGES FOR
WIRELESS/VoIP ENHANCED 911 SERVICE, TRA DOCKET NO. 07-
00253**

Dear Chairman Roberson:

Enclosed for filing is *Verizon Wireless' Complaint And Petition For Leave To Intervene*
in the above-captioned matter.

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

Respectfully submitted,


Melvin Malone

c: Parties of Record

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

IN RE:)	
)	
CITIZENS TELECOMMUNICATIONS)	DOCKET NO. 07-00253
COMPANY OF TENNESSEE'S PROPOSED)	
TARIFF NO. 20070432 TO GENERAL)	
CUSTOMER SERVICES TARIFF)	
REGARDING CHARGES FOR)	
WIRELESS/VoIP ENHANCED 911)	
SERVICE)	

**COMPLAINT AND PETITION FOR LEAVE TO INTERVENE OF
VERIZON WIRELESS**

Cellco Partnership d/b/a Verizon Wireless, on behalf of itself and its affiliates, ("Verizon Wireless" or "Petitioner"), by and through its undersigned counsel, hereby files this Complaint and Petition to Intervene in the above-captioned proceeding, pursuant to Tennessee Regulatory Authority ("TRA" or "Authority") Rules 1220-1-2-.02 and 1220-1-2-.08 and Tenn. Code Ann. §§ 65-4-104, 65-4-117 and 4-5-310, with respect to Citizens Telecommunications Company of Tennessee's ("Citizens") proposed revisions to its General Customer Services Tariff in Tariff Transmittal Number 20070432 ("*Proposed Revisions*"). Since the *Proposed Revisions* are scheduled to become effective on November 16, 2007, Petitioner respectfully requests that its Complaint and Petition to Intervene receive expedited treatment. In support of this Complaint and Petition, Petitioner avers as follows:

1. Petitioner is a commercial mobile radio service ("CMRS") provider licensed by the Federal Communications Commission ("FCC") to provide wireless services in Tennessee. Petitioner provides telecommunications services throughout Tennessee.

2. Petitioner, through its business conduct in the State of Tennessee, owns and operates certain wireless communications services and facilities throughout Tennessee.

3. Citizens Telecommunications Company of Tennessee is an incumbent local exchange company (“ILEC”) certified to provide telecommunications services in the State of Tennessee. Citizens list its address on filings with the Authority as 300 Bland Street, P.O. Box 770, Bluefield, WV 24701.

4. On or about October 29, 2007, Citizens filed a Fourth Revised Page 36 to its General Customer Services Tariff. Though the *Proposed Revisions* were submitted as an administrative correction, they are in fact substantive in nature. According to Citizens’ submission, the effective date for the *Proposed Revisions* is November 16, 2007.¹

5. Petitioner is directly impacted by Citizens’ *Proposed Revisions*.

6. As the tariff now stands - without the *Proposed Revisions* - the Rates and Charges in S16.1.5 on Third Revised Page 36 of Citizens’ tariff do not apply to Verizon Wireless. In the *Proposed Revisions*, Citizens is seeking to apply the afore-referenced Rates and Charges to Verizon Wireless.

7. Through the *Proposed Revisions*, Citizens unlawfully seeks to assess a monthly E-911 related charge on wireless providers that is clearly contrary to well-settled FCC decisions regarding the allocation of costs associated with implementing wireless E-911. The monthly charge is for the administration and storage of “pseudo ANIs” (“pANIs”) within Citizens’ emergency service system selective routers to operate and direct calls to the appropriate Public

¹ Prior to permitting the *Proposed Revisions* to become effective, the Authority must consider whether Citizens has complied with Tenn. Code Ann. § 65-5-101(c), which requires that “the tariffs of incumbent local exchange telephone companies establishing rates or terms, or both, for telecommunications services shall be filed with the Authority and shall be effective twenty-one (21) days after filing.” (emphasis added). Notwithstanding, the noted October 26, 2007, issuance date on the tariff filing, it appears, as best that we have been able to learn, that the *Proposed Revisions* may not have been actually filed until October 29, 2007. If so, the proposed effective date of November 16, 2007, is inappropriate.

Safety Answering Points (“PSAP”). Thus, the monthly charge is directly associated with a Selective Router’s administrative functionality or upgrade.²

8. The FCC unequivocally resolved quite some time ago that the PSAP is responsible for all costs associated with upgrading and maintaining the Selective Router. The FCC has determined that “the input to the 911 Selective Router shall serve as the demarcation point for allocating costs between wireless carriers and PSAPs, both with respect to the delivery of Phase I information and with respect to the delivery of Phase II information.”³ Wireless carriers must bear all Phase I and II costs up to that point and PSAPs bear all Phase I and II costs beyond it.⁴ The PSAP is responsible for the costs “of maintaining and/or upgrading the E911 components and functionalities beyond the input to the 911 Selective Router, including the Selective Router itself, the trunks between the 911 Selective Router and the PSAP, the Automatic Location Identification (ALI) database, and the PSAP customer premises equipment (CPE).”⁵ The p-ANI is used by the Selective Router to determine which local PSAP is the appropriate destination for the 911 voice call and the corresponding Phase I or II location information (*i.e.* the designated PSAP).⁶ Thus, the *Proposed Revisions*, contrary to the FCC’s explicit directives, are being employed by Citizens to assess a monthly administrative charge on wireless carriers for maintenance and operation of the Selective Router. The FCC has

² As noted by Sprint Nextel in its Complaint and Petition to Intervene, the charges in the *Proposed Revisions* that Citizens seeks to apply to wireless providers do not appear to be reasonable. Although Verizon Wireless maintains that the charges may not be lawfully charged to wireless providers, the Authority should, as Sprint Nextel contends, consider the reasonableness of the charges generally if Citizens is permitted to apply them to wireless providers.

³ *Order on Reconsideration*, In the Matter of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Request of King County Washington (“King County Reconsideration”), 17 FCC Rcd 14789, 14793, CC Docket No. 94-102, (July 24, 2002) ¶10.

⁴ Letter to Kathleen B. Levitz from Thomas J. Sugrue dated October 28, 2002, CC Docket 94-102, p. 4.

⁵ *Id.* at 14791, ¶4, citing, October 28, 2002 Letter of Thomas Sugrue, Chief, FCC Wireless Telecommunications Bureau to Kathleen B. Levitz et. al., Re: CC Docket No. 94-102: Responsibility for Costs of E911 Phase II ALI Database Upgrades.

⁶ *King County Reconsideration*, ¶ 12.

determined that this cost is not the responsibility of wireless carriers, and Citizens must not be allowed to simply ignore federal law.

9. Tenn. Code Ann. § 65-4-124(a) provides, in part, that “All telecommunications services providers shall provide non-discriminatory interconnection to their public networks under reasonable terms and conditions[.]” The proposed monthly administrative charge on wireless carriers for maintenance and operation of the Selective Router would amount to unreasonable terms and conditions and therefore violates this statute.

10. Tenn. Code Ann. § 65-4-122(c) provides that it shall be unlawful for a common carrier or public service company “to subject any particular person, company, firm, corporation . . . , or any particular description of traffic or service to any undue or unreasonable prejudice or disadvantage.” Because Citizens is seeking to charge wireless providers for cost recovery that should be borne by other parties, the proposed application of the charge to wireless providers violates this statute.

11. Tenn. Code Ann. § 65-4-115 provides, in part, that “No public utility shall adopt, maintain, or enforce any regulation, practice, or measurement which is unjust, unreasonable, unduly preferential or discriminatory[.]” The proposed application of the charges to wireless carriers constitutes a regulation that is unjust, unreasonable and unduly discriminatory because wireless carriers are not responsible for such charges. Therefore, the proposed application of the charges violates this statute.

12. Authority Rule 1220-8-.13(2)(d)(5) requires Incumbent Enhanced 911 Emergency Service Providers to provide for “[f]air and equitable agreements...based on the Incumbent Enhanced 911 Service Provider billing the [Emergency Communications District] for its portion of the Enhanced 911 service as provided for in the tariffs, and the other service providers billing

the ECD for their portions of the Enhanced 911 service.” The *Proposed Revisions* would violate this rule by permitting Citizens to circumvent its obligation to offer fair and equitable agreements and to force wireless providers to pay an Enhanced 911 charge for which they are not responsible.

13. If permitted to become effective, the *Proposed Revisions* will directly and adversely affect Petitioner’s operations in the State of Tennessee.

14. For the reasons set forth herein, the TRA should reject Citizens’ unlawful *Proposed Revisions*.

15. The Petitioner’s requests are consistent with the public interest, which is served by ensuring that charges for tariffed services are applied in a just, reasonable and nondiscriminatory manner. The *Proposed Revisions* are against the public interest and thus harmful to both Tennessee’s competitive environment and its consumers.

16. Petitioner’s legal rights, duties, privileges, immunities or other legal interests will be determined in this proceeding.

17. Because of its direct interest in this proceeding, Petitioner respectfully seeks intervention rights, the convening of a contested case, and suspension of the *Proposed Revisions* until the conclusion of a contested case.

18. The interests of justice and the orderly and prompt conduct of the proceedings will not be impaired by allowing Petitioner’s requests.

19. As demonstrated herein, based on long-standing FCC decisions, Petitioner has a substantial likelihood of prevailing on the merits of this Complaint.

20. Should the requests be granted, all notices, pleadings, orders, documents and the like in this proceeding should be provided to:

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Elaine D. Critides
Verizon Wireless
1300 I Street, NW, Suite 400W
Washington, DC 20005
(202) 589-3756
elaine.critides@verizonwireless.com

WHEREFORE, Petitioner prays that the Authority grants the following:

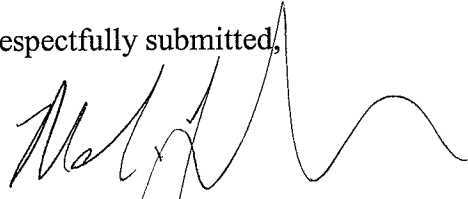
1. Consistent with the public interest, Petitioner urges the Authority to summarily deny and reject the *Proposed Revisions*;
2. In the event the Authority does not summarily reject the *Proposed Revisions*, Petitioner requests that the Authority (a) suspend the *Proposed Revisions* on November 16, 2007, and decline to permit the same to become effective on November 16, 2007; (b) convene a contested case regarding the matters set forth in this Complaint and suspend the *Proposed Revisions* until the completion of said contested case; (c) grant this petition for intervention; (d) appoint a Hearing Officer to prepare this matter for a hearing on the merits; and (e) issue a final ruling rejecting the *Proposed Revisions*.

3. In the event the Authority permits the *Proposed Revisions* to go into effect prior to being on file for the required twenty-one (21) days, Petitioner requests that the Authority (a) immediately convene a contested case regarding the matters set forth in this Complaint (b) grant this petition for intervention; (c) appoint a Hearing Officer to prepare this matter for a hearing on the merits; and (d) issue a final ruling revoking the *Proposed Revisions*.

4. At a minimum, and in the alternative, Petitioner asks the Authority to suspend the *Proposed Revisions* on or before November 16, 2007, and proceed with an investigation in which all interested parties, including Petitioner, are allowed to participate in all respects; and

5. All other relief deemed appropriate under the law and the rules and regulations of the Authority.

Respectfully submitted,



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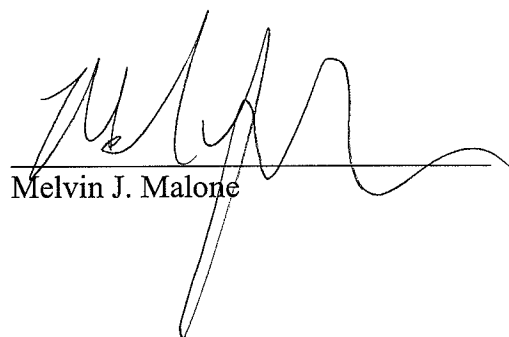
Elaine D. Critides
Verizon Wireless
1300 I Street, NW, Suite 400W
Washington, DC 20005
(202) 589-3756

Attorneys for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on November 15, 2007, a true and correct copy of the foregoing has been served on the party set forth below, via U.S. Mail and Facsimile:

J. Michael Swatts
Citizens Telecommunications Company of Tennessee
300 Bland Street, P.O. Box 770
Bluefield, WV 24701
Facsimile (304) 325-1483



Melvin J. Malone