

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

NEW CINGULAR WIRELESS PCS, LLC D/B/A	)	
AT&T MOBILITY NOTICE OF ACQUISITION	)	CASE NO.
AND REQUEST FOR TRANSFER OF ELIGIBLE	)	2008-00077
TELECOMMUNICATIONS CARRIER DESIGNATION	)	

ORDER

This matter is now before the Commission for review of the petitioner's request for relinquishment of certain wire centers from eligible telecommunications carrier ("ETC") designation. The Commission previously designated American Cellular Corporation ("ACC") as an ETC for the purpose of receiving federal high cost and low income universal service support in certain rural and non-rural areas of Kentucky.<sup>1</sup> On February 26, 2008, AT&T, Inc. ("AT&T") notified the Commission that on November 15, 2007, Dobson Communications Corporation ("Dobson") became a wholly-owned subsidiary of AT&T and that AT&T intended to consolidate various Dobson legal entities, including ACC, by merging them into New Cingular Wireless PCS, LLC d/b/a AT&T Mobility ("AT&T Mobility") effective in April 2008. AT&T requested that the Commission's transfer of the ETC designation of ACC to AT&T Mobility not include Kentucky RSA 6 and 8, as these market areas were being divested, pursuant to

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<sup>1</sup> See Case No. 2005-00130, In the Matter of Petition of American Cellular Corporation Petition for Designation as an Eligible Telecommunications Carrier Pursuant to Section 214(e) of the Telecommunications Act (Ky. PSC Aug. 15, 2005). ACC was controlled by Dobson Communications Corporation. ACC and Dobson are now both controlled by AT&T.

an Order of the Federal Communications Commission (“FCC”)<sup>2</sup>. On April 14, 2008, the Commission granted AT&T’s request to transfer the ETC designation from ACC to AT&T Mobility, except that ACC would remain designated as the ETC in KY-6 and KY-8 until it divested itself of those areas.<sup>3</sup>

As it pertains to the matter currently before the Commission, on March 27, 2009, AT&T Mobility requested that the Commission approve the relinquishment of ACC’s designation as an ETC in RSA 6 and 8; the transfer of the ETC designation from ACC to AT&T Mobility for the area not being divested; and that the Commission recognize, effective March 31, 2009, that ACC’s remaining designation as an ETC has been transferred to AT&T Mobility. On December 22, 2008, the operations in Kentucky RSA 6 and 8 were successfully divested to Cellco Partnership d/b/a Verizon Wireless and certain of its subsidiaries (collectively, “Verizon Wireless”). AT&T Mobility requests that ACC’s relinquishment of the ETC designation in the wire centers identified in Exhibit A be effective as of December 22, 2008.

The Commission had neither approved a transfer of ACC’s ETC designation in Kentucky RSA 6 and 8 to Verizon Wireless, nor had Verizon Wireless made a request for such designation. By Order dated May 8, 2009, the Commission made Verizon Wireless a party to this matter for the purpose of issuing data requests centered on the

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<sup>2</sup> In the Matter of Applications of AT&T, Inc. and Dobson Communications Corporation For Consent to Transfer Control of Licenses and Authorizations, File Nos. 0003092368, et al., WT Docket No. 07-153 (“Dobson Merger Approval Order”) (rel. Nov. 19, 2007). This Order simultaneously approved the transfer of control between the companies, while also mandating divestment of operating units within certain market areas.

<sup>3</sup> See April 14, 2008 Order in this matter.

provision of low income service in market areas RSA 6 and 8 after the ACC divestment. In the May 8, 2009 data requests, the Commission inquired as to why Verizon Wireless was unwilling or unable to assume the ETC designation. In its response,<sup>4</sup> Verizon Wireless stated that, in connection with the acquisition of Alltel Corporation, the FCC required Verizon Wireless to phase out federal universal service support over five years beginning in 2009.<sup>5</sup> Verizon Wireless stated that it is not seeking new ETC designations or increased universal service funds under the current system and requirements.<sup>6</sup> After Verizon Wireless formally acquired ACC's former RSA 6 and 8 market areas on December 22, 2008, Verizon Wireless stated that, on a voluntary basis, it allowed the existing 263 Lifeline customers in RSA 6 and 8 to continue to receive service at the discounted rate until May 31, 2009. Verizon Wireless stated that it provided written notices to Lifeline customers in those service areas wherein the customers were advised that their Lifeline discount with Verizon Wireless would be eliminated by a certain date and each customer needed to contact another ETC service provider in the area if they desired to continue receiving discounted services. The customers were advised that they would not be subject to an early termination fee with Verizon Wireless if they chose to become subscribers of another ETC provider.<sup>7</sup>

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<sup>4</sup> Filed May 29, 2009.

<sup>5</sup> Id. at Response 2. In the Matter of Applications of Cellco Partnership d/b/a Verizon Wireless and Atlantis Holdings LLC, WT Docket No. 08-95, et al. (rel. Nov. 10, 2008) at ¶¶ 192-197.

<sup>6</sup> Id.

<sup>7</sup> Id. at Response 1, Response 3 and Exhibit A.

The Federal Communications Act of 1934, as amended, (“Act”), provides that a state commission must allow the relinquishment of an ETC designation in areas served by more than one ETC. Specifically, section 214(e)(4) of the Act provides, in part:

A State commission (or the [FCC] in the case of a common carrier designated under paragraph (6)) shall permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier. . . .

47 U.S.C. §214(e)(4); See also 47 C.F.R. § 54.205(a) and (b).

The Commission finds that despite the fact that ACC will no longer provide service in RSA 6 and 8 and Verizon Wireless is prohibited, per the FCC, from serving as an ETC in those newly acquired areas, the customers within each of the incumbent carrier wire centers identified in Appendix A to this Order will be able to receive discounted service from another ETC within those service areas. The Commission finds that Verizon Wireless, despite the prohibitions for Universal Service Fund (“USF”) reimbursement, voluntarily self-supported approximately 263 Lifeline customers in RSA 6 and 8 from December 22, 2008 through May 31, 2009 and also provided adequate and proper notice to the Lifeline customers as to the discontinuation of the discounted services.<sup>8</sup> The Commission believes that Verizon Wireless should be commended for this self-support and assistance given to low income telephone subscribers in RSA 6 and 8.

As to AT&T Mobility’s request that it be permitted, pursuant to 47 U.S.C. §214(e)(4), to relinquish ETC status in Kentucky RSA 6 and 8, and although the Commission is not satisfied that the ACC divestment from those areas occurred prior to

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<sup>8</sup> See May 29, 2009 Data Request Response at Response 3 and Exhibit A.

requesting ETC relinquishment, the Commission cannot find that either AT&T Mobility or ACC violated any state or federal requirements with the timing of its notice and request. If Verizon Wireless had not voluntarily decided to fill the gap left by ACC and AT&T Mobility for those former ACC Lifeline customers, more than 200 low-income Kentuckians in market areas RSA 6 and 8 would have lost their discounted services in December 2008 without sufficient time to prepare for the transition to a new carrier and potentially higher monthly telephone costs. Verizon Wireless voluntarily provided those customers with six months of discounted service and the time necessary to evaluate other options.

The low-income support provided to ETCs through the Universal Service Fund exists to provide ways for low-income Americans to receive telephone service at lower rates, thereby allowing them to have telephone services that ordinarily would not be attainable. By leaving market areas RSA 6 and 8 without giving its low-income subscribers the fair and timely opportunity to find new ETCs, ACC and AT&T Mobility acted in direct contravention of the purpose of the USF. ACC and AT&T Mobility showed poor service judgment in this instance, but there is no substantive or legal basis for denying the request for relinquishment. Asking for approval after the act-in-question has already been performed does not in itself ordain a permissive declaration. *Post hoc ergo propter hoc.*<sup>9</sup> The Commission shall grant AT&T Mobility's request for relinquishment, but advises all current ETCs to be more judicious in future decisions to make requests to relinquish the right to provide discounted telephone services within the Commonwealth. Additionally, AT&T Mobility had previously requested that the

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<sup>9</sup> *Lat.* After this, therefore because of this.

Commission approve the transfer of the ETC designation of ACC to AT&T Mobility in those areas that would not be relinquished pursuant to the FCC's mandated divestiture. The Commission granted that request.<sup>10</sup> AT&T Mobility informed the Commission that the proposed merger of ACC into AT&T Mobility did not occur on the date planned in April 2008, but rather occurred nearly one-year later on March 31, 2009. Having previously approved the transfer of ACC's ETC designation, the Commission finds that the conditions of the designation transfer shall remain the same and the transfer is deemed effective as of March 31, 2009. The transfer of designation shall apply to the wirecenters listed in Appendix B to this Order.

IT IS THEREFORE ORDERED that:

1. The request for the partial relinquishment of ACC's ETC designations in Kentucky RSA 6 and 8 is granted and is deemed effective as of December 22, 2008.
2. The request that ACC's ETC designation for certain wirecenters be transferred to AT&T Mobility is granted and shall apply to the wirecenters provided in Appendix B to this Order, effective March 31, 2009.
3. The Executive Director shall serve copies of this Order on USAC and the FCC.
4. This matter is now closed and shall be removed from the Commission's Docket.

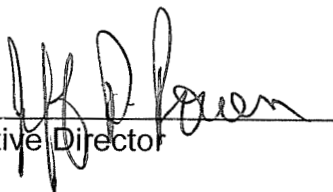
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<sup>10</sup> See Case No. 2008-00077, In the Matter of New Cingular Wireless PCS, LLC d/b/a AT&T Mobility Notice of Acquisition and Request for Transfer of Eligible Telecommunications Carrier Designation (Ky. PSC Apr. 14, 2008).

By the Commission

ENTERED  
JUL 15 2009 *M*  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
\_\_\_\_\_  
Executive Director

Case No. 2008-00077

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2008-00077 DATED JUL 15 2009

**AT&T Mobility ETC Wire Centers For Relinquishment (SAC 269905)**

WC_Code	Exchange	ILEC SAC	SAC_Name
BEREKYXA	BEREA	269690	KENTUCKY ALLTEL, INC. - LEXINGTON
BRHDKYXA	BRODHEAD	269691	KENTUCKY ALLTEL, INC. - LONDON
BRSDKYXA	BURNSIDE	269690	KENTUCKY ALLTEL, INC. - LEXINGTON
BTVLKYXA	BRYANTSVILLE	269690	KENTUCKY ALLTEL, INC. - LEXINGTON
CRBOKYMA	CRAB ORCHARD	265182	SOUTH CENTRAL BELL-KY
DAVLKYMA	DANVILLE	265182	SOUTH CENTRAL BELL-KY
EBNKKYXA	EUBANK	269691	KENTUCKY ALLTEL, INC. - LONDON
EBRNKYAC	EAST BERNSTAD	269691	KENTUCKY ALLTEL, INC. - LONDON
FBSHKYXA	FAUBUSH	269691	KENTUCKY ALLTEL, INC. - LONDON
FORDKYMA	FORD	265182	SOUTH CENTRAL BELL-KY
HTVLKYXE	HUSTONVILLE	269690	KENTUCKY ALLTEL, INC. - LEXINGTON
JNCYKYMA	JUNCTION CITY	265182	SOUTH CENTRAL BELL-KY
KKVLKYMA	KIRKSVILLE	265182	SOUTH CENTRAL BELL-KY
LBRTKYXA	LIBERTY	269690	KENTUCKY ALLTEL, INC. - LEXINGTON
LNSCKYXA	LANCASTER	269690	KENTUCKY ALLTEL, INC. - LEXINGTON
LONDKYXA	LONDON	269691	KENTUCKY ALLTEL, INC. - LONDON
LVTNKYXA	LIVINGSTON	269691	KENTUCKY ALLTEL, INC. - LONDON
MTVRKYAI	MOUNT VERNON	269691	KENTUCKY ALLTEL, INC. - LONDON
NANCKYXA	NANCY	269690	KENTUCKY ALLTEL, INC. - LEXINGTON
PNLCKYXE	PAINT LICK	269690	KENTUCKY ALLTEL, INC. - LEXINGTON
PRVLKYMA	PERRYVILLE	265182	SOUTH CENTRAL BELL-KY
RCMDKYMA	RICHMOND	265182	SOUTH CENTRAL BELL-KY
SCHLKYXA	SCIENCE HILL	269691	KENTUCKY ALLTEL, INC. - LONDON
SMRTKYXA	SOMERSET	269690	KENTUCKY ALLTEL, INC. - LEXINGTON
SOVLKYXA	SHOPVILLE	269691	KENTUCKY ALLTEL, INC. - LONDON
STFRKYMA	STANFORD	265182	SOUTH CENTRAL BELL-KY
WACOKYMA	WACO	265182	SOUTH CENTRAL BELL-KY
WHLLKYXA	WHITE LILY	269691	KENTUCKY ALLTEL, INC. - LONDON
AGSTKYXA	AUGUSTA	269691	KENTUCKY ALLTEL, INC. - LONDON
BKVLKYXA	BROOKSVILLE	269691	KENTUCKY ALLTEL, INC. - LONDON
CRLSKYMA	CARLISLE	265182	SOUTH CENTRAL BELL-KY
DOVRKYXA	DOVER	269691	KENTUCKY ALLTEL, INC. - LONDON
EWNGKYXA	EWING	269690	KENTUCKY ALLTEL, INC. - LEXINGTON
FMBGKYXA	FLEMINGSBURG	269690	KENTUCKY ALLTEL, INC. - LEXINGTON
FRNLKYXA	FERNLEAF	269691	KENTUCKY ALLTEL, INC. - LONDON
GMTWKYXA	GERMANTOWN	269691	KENTUCKY ALLTEL, INC. - LONDON



GRSNKYXA	GARRISON	269690	KENTUCKY ALLTEL, INC. - LEXINGTON
HLBOKYXA	HILLSBORO	269690	KENTUCKY ALLTEL, INC. - LEXINGTON
JHVLKYXA	JOHNSVILLE	269691	KENTUCKY ALLTEL, INC. - LONDON
LWGMKYXA	LEWISBURG	269691	KENTUCKY ALLTEL, INC. - LONDON
MRHDKYXA	MOREHEAD	269690	KENTUCKY ALLTEL, INC. - LEXINGTON
MTOLKYXA	MOUNT OLIVET	269691	KENTUCKY ALLTEL, INC. - LONDON
MTSTKYMA	MT STERLING	265182	SOUTH CENTRAL BELL-KY
MYLCKYXA	MAYSLICK	269691	KENTUCKY ALLTEL, INC. - LONDON
MYVLKYMA	MAYSVILLE	265182	SOUTH CENTRAL BELL-KY
OLHLKYXA	OLIVE HILL	269690	KENTUCKY ALLTEL, INC. - LEXINGTON
OWVLKYXA	OWINGSVILLE	269690	KENTUCKY ALLTEL, INC. - LEXINGTON
SHBGKYXA	SHARPSBURG	269690	KENTUCKY ALLTEL, INC. - LEXINGTON
SLLCKYXA	SALT LICK	269690	KENTUCKY ALLTEL, INC. - LEXINGTON
TLBOKYXA	TOLLESBORO	269690	KENTUCKY ALLTEL, INC. - LEXINGTON
VNBGKYXA	VANCEBURG	269690	KENTUCKY ALLTEL, INC. - LEXINGTON
WASHKYXA	WASHINGTON	269691	KENTUCKY ALLTEL, INC. - LONDON

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2008-00077 DATED JUL 15 2009

**AT&T Mobility ETC Designated Wire Centers (SAC 269905)**

<u>WC Code</u>	<u>Exchange</u>	<u>ILEC SAC</u>	<u>SAC Name</u>
BSVLKYXR	BURKESVILLE1	260401	DUO COUNTY TEL. COOP., INC.
FRPLKYXA	FAIRPLAY	260401	DUO COUNTY TEL. COOP., INC.
JMTWKYXA	JAMESTOWN	260401	DUO COUNTY TEL. COOP., INC.
RSSPKYXA	RUSSELLSPG	260401	DUO COUNTY TEL. COOP., INC.
PNKNKYXA	PINE KNOT	264002	HIGHLAND TELEPHONE COOPERATIVE, INC. - KY
STRNKYXA	STNSWHLYCY	264002	HIGHLAND TELEPHONE COOPERATIVE, INC. - KY
ALBYKYXA	ALBANY	269690	KENTUCKY ALLTEL, INC. - LEXINGTON
BRVLKYXA	BRADFORDSVILLE	269690	KENTUCKY ALLTEL, INC. - LEXINGTON
BSVLKYXA	BURKESVILLE	269690	KENTUCKY ALLTEL, INC. - LEXINGTON
CECLKYXA	CECILIA	269690	KENTUCKY ALLTEL, INC. - LEXINGTON
CLMAKYXA	COLUMBIA	269690	KENTUCKY ALLTEL, INC. - LEXINGTON
CMVLKYXA	CAMPBELLSVILLE	269690	KENTUCKY ALLTEL, INC. - LEXINGTON
EZTWKYXA	ELIZABETHTOWN	269690	KENTUCKY ALLTEL, INC. - LEXINGTON
GLSGKYXA	GLASGOW	269690	KENTUCKY ALLTEL, INC. - LEXINGTON
GNBGKYXB	GREENSBURG	269690	KENTUCKY ALLTEL, INC. - LEXINGTON
HGVLKYXA	HODGENVILLE	269690	KENTUCKY ALLTEL, INC. - LEXINGTON
LBNNKYXA	LEBANON	269690	KENTUCKY ALLTEL, INC. - LEXINGTON
LRTTKYXA	LORETTO	269690	KENTUCKY ALLTEL, INC. - LEXINGTON
MNTIKYXA	MONTICELLO	269690	KENTUCKY ALLTEL, INC. - LEXINGTON
SHDNKYXA	SOUTH HARDIN	269690	KENTUCKY ALLTEL, INC. - LEXINGTON
TMVLKYXA	TOMPKINSVILLE	269690	KENTUCKY ALLTEL, INC. - LEXINGTON
BLFDKYMA	BLOOMFIELD	265182	SOUTH CENTRAL BELL-KY
BRGNKYMA	BURGIN	265182	SOUTH CENTRAL BELL-KY
BRTWKYES	BARDSTOWN	265182	SOUTH CENTRAL BELL-KY
CHPLKYMA	CHAPLIN	265182	SOUTH CENTRAL BELL-KY
HDBGKYMA	HARRODSBURG	265182	SOUTH CENTRAL BELL-KY
LBJTKYMA	LEBANON JUNCTION	265182	SOUTH CENTRAL BELL-KY
LRBGKYMA	LAWRENCEBURG	265182	SOUTH CENTRAL BELL-KY
MTEDKYMA	MT EDEN	265182	SOUTH CENTRAL BELL-KY
NWHNKYMA	NEW HAVEN	265182	SOUTH CENTRAL BELL-KY
RSTRKYES	ROSE TERRACE	265182	SOUTH CENTRAL BELL-KY
SLVSKYMA	SALVISA	265182	SOUTH CENTRAL BELL-KY
SPFDKYMA	SPRINGFIELD	265182	SOUTH CENTRAL BELL-KY
TYVLKYMA	TAYLORSVILLE	265182	SOUTH CENTRAL BELL-KY
WSBGKYMA	WILLISBURG	265182	SOUTH CENTRAL BELL-KY
WSPNKYMA	WEST POINT	265182	SOUTH CENTRAL BELL-KY
BFLOKYXA	BUFFALO	260418	SOUTH CENTRAL RURAL TEL. COOP. CORP., INC.
BOVLKYXA	BONNIEVL	260418	SOUTH CENTRAL RURAL TEL. COOP. CORP., INC.
CNMRKYXA	CANMER	260418	SOUTH CENTRAL RURAL TEL. COOP. CORP., INC.

CNTRKYXA	CENTER	260418	SOUTH CENTRAL RURAL TEL. COOP. CORP., INC.
CVCYKYXA	CAVE CITY	260418	SOUTH CENTRAL RURAL TEL. COOP. CORP., INC.
EDTNKYXA	EDMONTON	260418	SOUTH CENTRAL RURAL TEL. COOP. CORP., INC.
FNRNKYXA	FOUNTANRUN	260418	SOUTH CENTRAL RURAL TEL. COOP. CORP., INC.
GLSGKYXR	GLASGOW2	260418	SOUTH CENTRAL RURAL TEL. COOP. CORP., INC.
GMLLYXA	GAMALIEL	260418	SOUTH CENTRAL RURAL TEL. COOP. CORP., INC.
HRCVKYXA	HORSE CAVE	260418	SOUTH CENTRAL RURAL TEL. COOP. CORP., INC.
HSVLYXA	HISEVILLE	260418	SOUTH CENTRAL RURAL TEL. COOP. CORP., INC.
LUCSKYXA	LUCAS	260418	SOUTH CENTRAL RURAL TEL. COOP. CORP., INC.
MFVLKYXA	MUNFORDVL	260418	SOUTH CENTRAL RURAL TEL. COOP. CORP., INC.
MGNLYXA	MAGNOLIA	260418	SOUTH CENTRAL RURAL TEL. COOP. CORP., INC.
SMSHKYXA	SUMMERSHAD	260418	SOUTH CENTRAL RURAL TEL. COOP. CORP., INC.
TMHLKYXA	TEMPLEHILL	260418	SOUTH CENTRAL RURAL TEL. COOP. CORP., INC.

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