

# Cheryl R. Winn

Attorney At Law

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August 28, 2009

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PUBLIC SERVICE  
COMMISSION

Mr. Jeff Derouen  
Executive Director  
Public Service Commission  
211 Sower Boulevard  
P.O. Box 615  
Frankfort, KY 40602

Re: A Certification of the Carriers Receiving Universal Service High-Cost Support,  
Administrative Case 381

Dear Mr. Derouen:

The Commission's September 25, 2001 Order in Administrative Case 381 requires that recipients of Federal Universal Service High-Cost Support provide information to the Commission by September 1 of each year regarding the use of those funds. The Commission, in turn, must certify to the FCC pursuant to the state certification process set out in 47 C.F.R. §54.313 that such funds are used appropriately.

Enclosed for filing are the Eligible Telecommunications Carrier Certification and Report of New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility (SAC 269905). Attachments A-1, A-2 and A-3 to the Certification contains confidential material, and pursuant to 807 KAR 5:001; §7, AT&T Mobility files herewith its Petition for Confidential Treatment requesting that the Commission afford confidentiality to that material. Also attached is an Affidavit of Jim Thorpe in Support of the Petition for Confidential Treatment. One proprietary copy and 10 edited copies of this material are filed with the Commission.

Should you wish any further information, please do not hesitate to contact me.

Sincerely,



Cheryl R. Winn  
Counsel for New Cingular Wireless  
PCS, LLC, d/b/a AT&T Mobility

Enclosures

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**EDITED**

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**COMMONWEALTH OF KENTUCKY  
BEFORE THE KENTUCKY PUBLIC SERVICE COMMISSION**

IN THE MATTER OF:

A CERTIFICATION OF THE CARRIERS            )     ADMINISTRATIVE CASE NO. 381  
RECEIVING FEDERAL UNIVERSAL SERVICE )  
HIGH COST SUPPORT                            )

\* \* \* \* \*

**PETITION OF NEW CINGULAR WIRELESS, LLC DBA AT&T MOBILITY  
(SAC 269905) FOR CONFIDENTIAL TREATMENT**

Petitioner, New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility ("AT&T Mobility"),<sup>1</sup> through counsel, pursuant to KRS 61.870, KRS 65.7639, and 807 KAR 5:001 Section 7, hereby submits its Petition for Confidential Treatment. The grounds in support of this Petition are set forth below.

In its Petition, AT&T Mobility is seeking Confidential Treatment for certain information attached to its Certification and Report required by the Commission's September 24, 2001 Order herein as well as the commitments made by AT&T Mobility in its request made on February 25, 2008 to transfer the eligible telecommunication carrier ("ETC") designation from American Cellular Corporation to AT&T Mobility for certain wire centers. The Company is providing the original of its Summary of Potential Capital Projects for 2010 ("**Confidential Attachment A-1**"), Summary of ETC Expenditures for 2008 ("**Confidential Attachment A-2**") and Updates to Planned ETC Expenditures for

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<sup>1</sup> On April 14, 2008, the Commission approved the request of New Cingular Wireless PCS, LLC ("AT&T Mobility") to transfer the ETC designation of American Cellular Corporation ("ACC") to AT&T Mobility for those areas in which ACC was previously designated as an ETC and which the FCC did not order AT&T Mobility to divest. The Commission further ordered that ACC will remain the designated ETC in KY-6 and KY-8 until it divests itself of those areas. *In the Matter of New Cingular Wireless PCS, LLC ("AT&T Mobility") Notice of Acquisition and Request for Transfer of Eligible Telecommunications Carrier Designation*, Case No. 2008-00077, Ordering Paragraph 2 and 3. Subsequently on July 15, 2009, the Commission granted the request for ACC to relinquish its ETC designation in KY-6 and KY-8 effective December 22, 2008 and the request that ACC's ETC designation for certain wire centers transfer to AT&T Mobility effective March 31, 2009.

2009 (“**Confidential Attachment A-3**”) (collectively referred to as “Company’s Summary of Potential Capital Projects and Service Improvement Update”) as attachments to this original Petition for Confidential Treatment and marked in red ink as “Proprietary Information” on each of these documents. The redacted documents are attached to the Eligible Telecommunications Carrier Certification and Report of New Cingular Wireless PCS, LLC (AT&T Mobility) (SAC 269905) filed herewith. The Company is also submitting the Affidavit of Jim Thorpe In Support of Petition for Confidential Treatment in support of this Petition (referred to hereafter as “Thorpe Affidavit”).

KRS 61.870 requires that public agencies within the Commonwealth make available for inspection all public records. Certain exceptions to that general requirement are contained in KRS 61.878 and KRS 61.878(1)(c), which provide an exemption for certain commercial information. In order to qualify for an exemption under these sections, a party must demonstrate that disclosure of such commercial information would permit an unfair commercial advantage to its competitors unless the information is afforded Confidential Protection. The procedure for requesting Confidential Treatment from the Commission is outlined in 807 KAR 5:001, Section 7.

All of the information contained in the Company’s Summary of Potential Capital Projects and Service Improvement Update is proprietary commercial information as recognized by KRS 65.7639. Accordingly, pursuant to KRS 61.878(1)(c), the Company requests that the Commission afford Confidential Treatment to the Company’s Summary of Potential Capital Projects and Service Improvement Update.

These documents would provide competitors and potential competitors with important information about the Company and its operations, which competitors would be unable to obtain otherwise. Thorpe Affidavit, ¶14. Armed with this information, a competitor could develop entry, marketing, or other strategies, which would likely ensure it success in competing with the Company. Further, in a competitive market, any

information gained about a competitor can be used to that competitor's detriment. *Id.* Such an unfair competitive advantage skews the marketplace and prevents the development of true competition to the ultimate detriment of the consumer.

Disclosure of the Confidential Information contained in the Company's Summary of Potential Capital Projects and Service Improvement Update would be detrimental to the Company because it contains data that is not otherwise available to the Company's competitors. *Id.* ¶¶ 4-5. The information sought to be protected herein is not generally known outside the Company, nor is it provided to the public. *Id.* ¶ 6. Indeed, by granting this Petition, the public interest will be served because competition will be enhanced. Finally, the Commission has recognized in its January 24, 2000 Order in Case No. 99-184 that information of this type, previously submitted by American Cellular, is entitled to Confidential Treatment.

Wherefore, AT&T Mobility respectfully requests that the Commission issue an Order granting Confidential Treatment to the Company's Summary of Potential Capital Projects and Service Improvement Update.

Respectfully submitted this the 28<sup>th</sup> day of August, 2009.



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**COUNSEL FOR NEW CINGULAR  
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D/B/A AT&T MOBILITY**

**COMMONWEALTH OF KENTUCKY  
BEFORE THE KENTUCKY PUBLIC SERVICE COMMISSION**

IN THE MATTER OF:

A CERTIFICATION OF THE CARRIERS ) ADMINISTRATIVE CASE NO. 381  
RECEIVING FEDERAL UNIVERSAL SERVICE )  
HIGH-COST SUPPORT )

**AFFIDAVIT OF JIM THORPE IN SUPPORT OF  
PETITION OF NEW CINGULAR WIRELESS PCS, LLC (“AT&T MOBILITY”)  
(SAC 269905) FOR CONFIDENTIAL TREATMENT**

Jim Thorpe being first duly sworn on oath, states as follows:

1. I currently serve as a Vice President / General Manager for AT&T Mobility LLC.

In this capacity I have personal knowledge of the matters set forth in this affidavit and am authorized to make this affidavit on behalf of New Cingular Wireless PCS, LLC (“AT&T Mobility”).

2. AT&T Mobility is requesting confidential treatment for its proposed filing of a spreadsheets describing the location of the Company’s cell sites, proposed service improvement projects and the estimated locations and costs associated with such improvements (**Confidential Attachment A-1, A-2, and A-3**).

3. This exhibit contains proprietary information that would aid competitors of AT&T Mobility and such trade secret information is subject to protection from disclosure pursuant to Kentucky law. See KRS 61.870, *et seq.*

4. The specific exhibits AT&T Mobility proposes to file would reveal proprietary information regarding the Company’s network infrastructure, build out plans and operating costs. This information constitutes a trade secret because it is commercial information that, if disclosed, could cause substantial competitive harm to AT&T Mobility. This information is either not publicly available or not generally available in this format. It would be difficult (or impossible)

for someone to discover this information from other sources. If this information were available to competitors in this format, they could use it to the competitive detriment of AT&T Mobility.

5. Wireless providers, like AT&T Mobility, operate in a highly competitive marketplace where such proprietary information is closely guarded to ensure it is not disclosed to competitors.

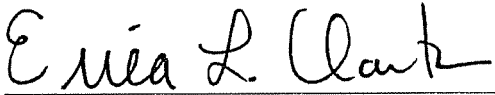
6. This information is protected internally by the Company as proprietary information.

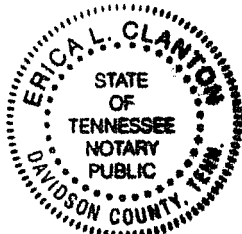
  
\_\_\_\_\_  
Jim Thorpe, Vice President/General Manager

STATE OF KENTUCKY     )  
  )  
COUNTY OF WILIAMSON    )

Subscribed and sworn to before me by Jim Thorpe as Vice President / General Manager of AT&T Mobility this 25<sup>th</sup> day of August 2009.

My commission expires: MAY 8, 2012

  
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Notary Public



My Commission Expires **MAY 8, 2012**

**COMMONWEALTH OF KENTUCKY  
BEFORE THE KENTUCKY PUBLIC SERVICE COMMISSION**

IN THE MATTER OF:

A CERTIFICATION OF THE CARRIERS ) ADMINISTRATIVE CASE NO. 381  
RECEIVING FEDERAL UNIVERSAL SERVICE )  
HIGH-COST SUPPORT )

**ELIGIBLE TELECOMMUNICATIONS CARRIER CERTIFICATION AND  
REPORT OF NEW CINGULAR WIRELESS PCS LLC (“AT&T MOBILITY”)  
(SAC 269905)**





divest effective December 22, 2008 and granting the request that ACC's ETC designation for certain wire centers be transferred to AT&T Mobility effective March 31, 2009.<sup>2</sup>

3. To enable the Company to receive federal high-cost universal service support in calendar year 2010, the Commission is required to certify the Company's use of support for SAC 269905 to the Federal Communications Commission ("FCC") and the Universal Service Administrative Company ("USAC") on or before October 1, 2009. On September 24, 2009, the Commission issued an order in Administrative Case No. 381 requiring all ETCs to file with the Commission their plans for the use of any high-cost federal universal service support they receive on or before September 1 of each calendar year.

4. As set forth in the ACC's ETC Designation Order and as AT&T Mobility committed to in its ETC designation request, on or before September 1 of each year, the Company is further required to file the following additional information with the Commission: (a) plans for the use of federal high cost support to be received; (b) records and documentation detailing the Company's progress towards meeting its build-out plans; (c) the number of complaints per 1,000 handsets; and (d) information detailing the number of unfulfilled requests for the past year.

5. Based on USAC's most recent projections, the Company currently estimates that it will receive approximately \$2.5 million in federal high-cost universal service support in 2010. The actual amount of support distributed to the Company may vary from this estimate as the amount of funding AT&T Mobility receives is dependent on a number of variables, including the per line support amount of the underlying ILEC and the number of AT&T Mobility subscribers that have service in a particular wire center. Further, the FCC previously ordered that the total annual competitive ETC ("CETC") support for each state will be capped at the level of support

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<sup>2</sup> See *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*, Case No. 2008-00077, Order (rel. July 15, 2009).

that all CETCs were eligible to receive during March 2008 on an annualized basis.<sup>3</sup> Therefore, the amount of support that AT&T Mobility receives is dependent on the amount of support received by other CETCs in the state. Last, there are a number of matters currently pending before the Federal Communications Commission (“FCC”) that, if adopted, could greatly impact the amount of funding available for CETCs.

6. Accordingly, the Company hereby certifies that all federal high-cost universal service support that it receives during the 2010 calendar year will be used only for the provision, maintenance and upgrading of facilities and services for which the support is intended pursuant to Section 254(e) of the Federal Telecommunications Act, 47 U.S.C. § 254(e).

A. **Service Improvement Progress Report**

7. Since its designation as an ETC, the Company has continued to identify facility construction projects intended to expand network coverage within its designated service area. Attached as **Confidential Attachment A-1** is a summary of the types of facilities, locations, estimated budget and deployment dates for each of these service improvements for calendar year 2010.

8. **Confidential Attachment A-2** explains how the Company spent the USF support that it received in 2008. **Confidential Attachment A-3** includes updates to the 2009 ETC plan that was filed as part of the annual certification last year.

9. Pursuant to 47 U.S.C. § 254(e), the Company will continue utilize the federal high-cost universal service support it receives to maintain, upgrade and operate these network facilities consistent with the universal service objective of providing quality telecommunications services.

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<sup>3</sup> See *In the Matter of High-Cost Universal Service Support, Federal-State Joint Board on Universal Service, Alltel Communications, Inc. et al. Petitions for Designation as Eligible Telecommunications Carriers, RCC Minnesota, Inc. and RCC Atlantic, Inc. New Hampshire ETC Designation Amendment, Order*, WC Docket No. 05-337 and CC Dkt No. 96-45 (rel. May 1, 2008).

**B. Requests for Service**

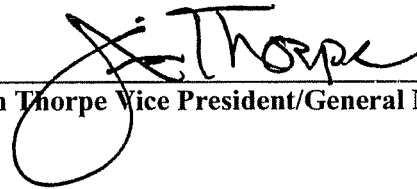
11. AT&T Mobility committed to annually report the number of requests for service from potential customers within its designated ETC service area that were unfulfilled. The Company has adopted the calendar year as the time period for purposes of meeting the September 1 filing deadline. Accordingly, for the time period January 1, 2008 through December 31, 2008, the Company experienced five requests for service that the Company was unable to satisfy. After following its six-step process for evaluating requests for service, the Company determined that the only way to provide service to the requesting customer was by constructing a new cell site. The Company further determined that such a cell site could not be put in service at a reasonable cost and within a reasonable time.

**C. Complaints Per 1,000 Handsets**

12. The Company is also required to annually report the number of complaints per 1,000 handsets. The Company has adopted the calendar year as the time period for purposes of meeting a September 1 filing deadline. For the time period January 1, 2008 through December 31, 2008, the Company received .094 complaints per 1,000 handsets statewide from the Commission, the Office of the Kentucky Attorney General, the Better Business Bureau or the FCC.

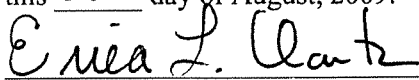
The matters addressed above are within my personal knowledge and are true and correct.

AT&T Mobility



Jim Thorpe Vice President/General Manager

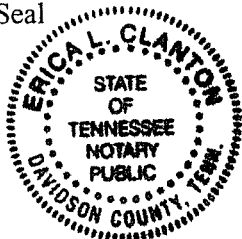
Subscribed and sworn to before me  
this 25<sup>th</sup> day of August, 2009.



Notary Public

My Commission expires: MAY 8, 2012

Seal



My Commission Expires MAY 8, 2012

**Confidential Attachment A-1**

The entire document is proprietary. There is no edited version.

Exhibit - A2

The entire document is proprietary. There is no edited version.

**Confidential Attachment A-3**

The entire document is proprietary. There is no edited version.