

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Public Service Commission
USF Use Certification 47 CFR 54.314 (2011)
Compliance

Case No. PU-10-476

**ORDER CERTIFYING USE OF FEDERAL UNIVERSAL SERVICES SUPPORT
FOR NEW CINGULAR WIRELESS PCS, LLC**

September 7, 2011

On March 23, 2011, New Cingular Wireless PCS, LLC filed with the North Dakota Public Service Commission (NDPSC) an application for designation as an eligible carrier for the purpose of receiving federal universal services support.

On July 13, 2011, the NDPSC designated New Cingular Wireless PCS, LLC as an eligible carrier.

Section 254(e) of the Telecommunications Act of 1996 (Act) requires telecommunications carriers to use universal services support “only for the provision, maintenance, and upgrading of facilities and services for which support is intended.” On May 23, 2001, the Federal Communications Commission (FCC) released its Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, and Report and Order in CC Docket No. 00-256 (Fourteenth R&O). The Fourteenth R&O requires that each state public utility regulatory authority file a certification with the FCC to ensure that telecommunications carriers receiving federal funds under the program use the support only as provided in Section 254(e) of the Act.

On August 28, 2002, the NDPSC issued an order in Case No. PU-439-02-441 indicating that any telecommunications carrier providing local exchange service in North Dakota that desires to have NDPSC certification to the FCC under 47 C.F.R. §§54.313 or 54.314 shall file an affidavit with the NDPSC certifying that federal support they will receive is used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended as required by Section 254(e). The NDPSC further ordered that affidavits filed with the NDPSC will be the basis for the NDPSC’s certification to the FCC.

In its March 23, 2011 application, New Cingular Wireless PCS, LLC included the affidavit of Hardmon Williams III, Vice President and General Manager for AT&T Mobility LLC and its subsidiary New Cingular Wireless PCS, LLC (“AT&T Mobility”), declaring that the federal high cost universal services support received by AT&T

Mobility will be used only for the provision, maintenance, and upgrading of the facilities and services for which the support is intended.

Under North Dakota law, the NDPSC has limited jurisdiction over telecommunications carriers. The FCC in its order recognized that some states have only limited regulatory oversight to ensure that federal universal support is reflected in intrastate rates and concluded that such states may nonetheless certify to the FCC that carriers in the state had accounted to the state commission for receipt of federal support, and that the support will be used as required under Section 254(e). (See Fourteenth R&O at ¶ 188). The FCC also recognized that some carriers may not be subject to the jurisdiction of a state regulatory authority, and in those instances carriers can certify directly to the FCC by means of a sworn affidavit executed by a corporate officer attesting to the use of the support only for purposes permitted under the Act. (See Fourteenth R&O at ¶ 189).

Based on the foregoing, the NDPSC issues the following:

Order


The NDPSC orders:

1. The NDPSC certifies that AT&T Mobility has accounted to the NDPSC by affidavit that all federal support AT&T Mobility receives will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.
2. The NDPSC certification is for federal universal support that AT&T Mobility receives during the period from July 13, 2011 through December 31, 2011.
3. The NDPSC certification is based upon the affidavit filed by New Cingular Wireless PCS, LLC.
4. The North Dakota Public Service Commission will provide a copy of the filed affidavit to the Federal Communications Commission and the Universal Service Administrative Company.

PUBLIC SERVICE COMMISSION



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