

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**New Cingular Wireless PCS, LLC  
Designated Eligible Carrier  
Application**

**Case No. PU-11-86**

**ORDER**

**July 13, 2011**

**Preliminary Statement**

On March 23, 2011 New Cingular Wireless PCS, LLC (New Cingular) a subsidiary of AT&T Mobility LLC, filed an Application for Designation as an Eligible Telecommunications Carrier (ETC) for the purpose of receiving federal universal service support in North Dakota. New Cingular is a Delaware limited liability company whose principal place of business is located in Atlanta, Georgia. New Cingular acquired certain licenses and assets that Verizon Wireless held to serve portions of North Dakota. New Cingular proposes to provide universal services as a Commercial mobile radio service carrier in much of the same service area previously designated to Western Wireless Corporation and WWC Holding Co., Inc.

On April 20, 2011 the Commission issued a Notice of Opportunity for Hearing and Notice of Informal Hearing providing that comments or requests for hearing be filed by June 3, 2011 and scheduling an informal hearing for June 22, 2011. No comments or requests for hearing were received. The informal hearing was held as scheduled. The notice stated that the Commission could determine the matter without a hearing.

The issues to be considered are:

1. Qualification of the applicant under the Telecommunications Act of 1996, Section 214(e) for designation as an ETC eligible to receive federal universal service funding.
2. What ETC universal service support area should be designated.
3. The public interest.

On June 10, 2011 New Cingular filed an affidavit of Hardmon Williams III, Vice President/General Manager for New Cingular Wireless PCS, LLC, in support of the application.

## ETC Designation

The Telecommunications Act of 1996 provides financial support for universal services to common carriers that have been designated as eligible telecommunications carriers (ETCs) and that (1) offer the universal services that are supported by Federal universal service support mechanisms under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier's services and (2) advertise the universal services, advertise the availability of such services, and advertise the charges for such services, using media of general distribution.

The universal services designated for support by Federal universal service support mechanisms include voice grade access to the public switched network, local usage, dual tone multi-frequency signaling or its functional equivalent, single-party service or its functional equivalent, access to emergency services, access to operator services, access to interexchange service, access to directory assistance, and toll limitation for qualifying low-income consumers.

Both federal law and state law give the Commission the authority to designate a common carrier as an ETC. In areas served by a rural telephone company, the Commission must find that ETC designation is in the public interest.

The affidavit of Hardmon Williams III states that:

- 1) New Cingular is a common carrier currently providing commercial mobile radio service (CMRS) licensee authorized by the Federal Communications Commission (FCC) to provide service within the Designated ETC area.
- 2) New Cingular requests designation as an ETC for the purpose of qualifying to obtain all available federal universal service support including, but not limited to, support for rural, insular and high costs areas, and for low-income customers.
- 3) New Cingular currently provides the nine supported services specified in 47 Code of Federal Regulations section 54.101(a)(1)-(9).
- 4) New Cingular will provide the supported services using its own facilities or a combination of its own facilities and the resale of another carrier's service.
- 5) New Cingular will advertise the availability of, and charges for, its universal service qualified offerings using media of general distribution. New Cingular generally advertises its services through various media, including television and radio, newspaper, and other print advertisements, as well as outdoor advertising, retail stores, direct marketing and the Internet.

- 6) New Cingular will offer Lifeline and Link-up telecommunications services to qualified low-income subscribers within the designated ETC service area. The Lifeline Calling Plan that New Cingular will offer in North Dakota is \$24.99 month before applicable Lifeline discounts (the discount is \$8.25 in non-tribal areas) and includes: 300 anytime minutes; 1000 night and weekend minutes; no additional long distance charge for calls to anywhere in the United States; and, no roaming charges for calls that originate in North Dakota, South Dakota and Minnesota. New Cingular will publicize the availability of Lifeline and Link-up benefits throughout the designated ETC service area, primarily through print advertising, brochures in its stores, direct outreach, and the Internet.
- 7) New Cingular commits to provide service throughout the designated ETC area upon reasonable request. If a request is made by a potential customer within its existing network coverage, New Cingular will provide service on a timely basis to that customer. If a potential customer requests service within New Cingular's designated ETC service area, but outside its existing network coverage, New Cingular will follow the six-step process specified in NDAC §69-09-05-12(3)(a).
- 8) New Cingular is committed to remaining functional in emergency situations. Provisions for emergency situations include back-up batteries and generators at switches and at a majority of its cell sites, use of mobile cell sites, and ability to re-route traffic around damaged network facilities.
- 9) New Cingular will comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service (Code) as required by NDAC §69-09-05-12(3)(d).
- 10) New Cingular offers calling plans that provide customers local usage that is comparable to the incumbent local exchange company (ILEC) when all of the additional features and functionalities and the inherent mobile nature of wireless service are taken into account. Currently, customers that choose the AT&T Nation® or the AT&T FamilyTalk® calling plans do not pay additional long distance charges for calls made within the United States Calling plans. The AT&T Nation® and AT&T FamilyTalk® calling plans also include numerous features at no additional charge, such as: Voicemail, Caller ID, Call Forwarding, Call Waiting, and Three-Way Calling. These calling plans include either unlimited nights and weekend minutes or generous night and weekend minute packages, and allow customers to Rollover® unused minutes for use in subsequent months. As such these calling plans provide customers with local usage that, when taking into account all of the additional benefits of AT&T Mobility's service offerings, are comparable to the ILEC' s calling plans.
- 11) New Cingular acknowledges that pursuant to NDAC §69-09-05-12(3)(f), the FCC may require it to provide customers equal access to long

distance service in the event that no other ETC is providing equal access within New Cingular's Designated ETC area.

- 12) New Cingular is not seeking designation for less than the entire study area located in North Dakota for a rural telephone company.
- 13) New Cingular will utilize the federal high-cost universal service support it receives only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.
- 14) New Cingular will comply with all of the required annual reporting requirements associated with being an ETC.

An applicant for ETC status is not required to be providing the required universal services to 100% of a service area before receiving designation as an ETC; however, we continue to subscribe to the policy that facilities to serve customers are required at some reasonable time after the customer agrees to the terms and conditions of the service provided.

### **Universal Service Support Areas**

The Commission must establish a geographic area (service area) for the purpose of determining universal service obligations and support mechanisms for the designated ETC. 47 U.S.C. § 214(e)(5).

The Act defines service area:

- (5) **SERVICE AREA DEFINED**-- The term "service area" means a geographic area established by a State commission for the purpose of determining universal service obligations and support mechanisms. In the case of an area served by a rural telephone company, "service area" means such company's "study area" unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company.<sup>1</sup>

In this proceeding, New Cingular is requesting a designated service area that includes the following study areas:

	Study Area Code (SAC)
BEK Comm. Coop	381604
Consolidated Telcom	381607
Dakota Central Coop	381610

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<sup>1</sup> 47 U.S.C. § 214(e)(5)

Dickey Rural Coop	381611
Griggs County Tel Co	381615
Halstad Tel Co	381401
Inter-Community Tel	381616
Midstate Comm.	381638
Midstate Tel Co	381617
North Dakota Tel Co	381447
Northwest Communications Cooperative	381625
Polar Comm Mut Aid	381630
Polar Telecomm	381614
Qwest Corp ND	385144
Red River Rural Tel	381631
Reservation Tel Coop	381632
SRT Communications	383303
United Tel Mutual	381636
W. River Telecom	381637
Wolverton Tel Co.	381509

Based on the evidence in this proceeding, New Cingular is qualified under the Telecommunications Act of 1996, Section 214(e) for designation as an ETC eligible to receive federal universal service funding and it is in the public interest that New Cingular be designated as an ETC in the requested service area. New Cingular acquired certain licenses and assets that Verizon Wireless held to serve portions of North Dakota and proposes to provide universal services much of the same service area previously designated to Western Wireless Corporation and WWC Holding Co., Inc. Western Wireless Corporation and WWC Holding Co., Inc. were designated by the Commission as an ETC. New Cingular continues the benefits of increased customer choice and the unique advantages that mobile telecommunications offers.

### Order

The Commission orders:

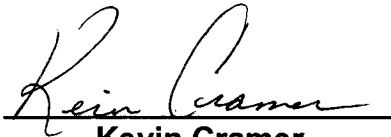
1. New Cingular Wireless PCS, LLC is designated an eligible telecommunications carrier for the purpose of receiving federal universal service support. The designated service area in this proceeding consists of the following study areas:

- BEK Comm. Coop
- Consolidated Telcom
- Dakota Central Coop
- Dickey Rural Coop
- Griggs County Tel Co
- Halstad Tel Co
- Inter-Community Tel
- Midstate Comm.
- Midstate Tel Co

North Dakota Tel Co  
Northwest Communications Cooperative  
Polar Comm Mut Aid  
Polar Telecomm  
Qwest Corp ND  
Red River Rural Tel  
Reservation Tel Coop  
SRT Communications  
United Tel Mutual  
W. River Telecom  
Wolverton Tel Co.

2. New Cingular Wireless PCS, LLC shall file quarterly reports to the Commission describing the status of its wireless E-911 implementation in North Dakota.

**PUBLIC SERVICE COMMISSION**



**Kevin Cramer  
Commissioner**



**Tony Clark  
Chairman**



**Brian P. Kalk  
Commissioner**