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July 30, 2012

JUL 30 2012

**PUBLIC SERVICE COMMISSION**

DARRELL NITSCHKE  
EXECUTIVE SECRETARY & DIRECTOR  
PUBLIC SERVICE COMMISSION  
600 EAST BOULEVARD, DEPT 408  
BISMARCK ND 58505-0480

RE: In the Matter of the Application for NEW CINGULAR WIRELESS PCS, LLC for Designation  
as an Eligible Telecommunications Carrier  
Docket No. PU-11-086  
Our File No. 14048

Dear Mr. Nitschke:

Enclosed for filing is an original and seven copies of the following:

1. Annual Report Letter;
2. Application for Trade Secret Protection by New Cingular Wireless PCS, LLC;
3. Certification; and
4. Confidential Trace Secret Exhibit A-1 and A-2 (Sealed Envelope).

For your convenience, an electronic copy of this material has also been sent to [dnitschk@nd.gov](mailto:dnitschk@nd.gov).

If you have any questions, please feel free to contact me.

Sincerely,

  
Thomas D. Kelsch

TDK:ls

Encs

c: Betsy S. Granger



2 **PU-12-504** Filed: 7/30/2012 Pages: 9  
ND Admin Code Section 69-09-05-12.1 Annual Report

New Cingular Wireless PCS, LLC

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

In the Matter of Annual Report of Eligible  
Telecommunications Carrier  
New Cingular Wireless PCS, LLC

Docket No. PU-11-86

**ANNUAL ELIGIBLE TELECOMMUNICATIONS CARRIER REPORT FOR  
CALENDAR YEAR 2011 OF NEW CINGULAR WIRELESS PCS, LLC**

**I. INTRODUCTION**

Pursuant to NDAC Rule Section 69-09-05-12.1, New Cingular Wireless PCS, LLC ("New Cingular ") submits this Annual Report and Certification for its study areas in the state of North Dakota. Section 69-09-5-12.1 requires that the annual report provide information in eight subject areas. Those eight areas are addressed below.

**A. New Cingular's Progress Report On Its Service Improvement Plan**

Section 69-09-05-12.1 (1) of the Commission's Rules requires an Eligible Telecommunications Carrier ("ETC") to provide:

A report describing the amount of high-cost universal service support the eligible telecommunications carrier received in the prior calendar years and that support was used for the provision, maintenance, or upgrading of the carrier's facilities and services. The report must explain any changes from the reports previously provided to the commission. The report must also include an estimate of the amount of federal high-cost universal service support the carrier anticipates receiving in the following calendar year and describe how that support is projected to be used for the provision, maintenance or upgrading of the carrier's facilities and services pursuant to Section 254 of the Telecommunications Act of 1996. The prior calendar year and following calendar years must identify specific construction or upgrade projects, describe how service will be improved for each project and provide the start date and completion date for each improvement, the amount of investment for each improvement, the specific geographic area where each improvement will be made, and the estimated population that will be served for each improvement.

New Cingular is providing as Confidential Exhibit A-1 its progress report on the previously filed Service Improvement Plan for New Cingular for calendar year 2011, along with a slightly revised

Service Improvement Plan for calendar years 2012 and 2013 based on the amount of federal ETC funding that New Cingular is currently projecting that it will receive. The Service Improvement Plan is subject to change over time for various reasons, including, but not limited to, changes in consumer demand and projected costs, projected universal service support amounts and the amount of universal service support actually received, and delays to projects caused by zoning/permitting, weather, lease negotiations, and the back-order of equipment. New Cingular is also providing in Confidential Exhibit A-2 a map depicting cell sites added in 2011 and coverage as of the end of that year and also depicting planned cell site locations for calendar year 2012.

Confidential Exhibits A-1 and A-2 are being filed separately with a request for confidential treatment pursuant to North Dakota Century Code Section 44-04-18.4, 47-25.1 and NDAC Section 69-02-09-01.

New Cingular will utilize federal high-cost universal service support for the provision, maintenance, and upgrading of facilities and services for which the support is intended consistent with section 254(e) of the Telecommunications Act of 1996 (the "Act") and section 54.7 of the Federal Communications Commission's Rules.

**B. New Cingular Network Outages In North Dakota Designated Area**

Section 69-09-05-12.1(2) of the Commission's Rules requires an ETC to annually report network outages within its Designated Area. The Rule specifically requires:

Detailed information on any outage, as that term is defined in 47 C.F.R. 4.5, of at least 30 minutes in duration for each designated service area for any facilities it owns, operates, leases, or otherwise utilizes that potentially affect at least ten percent of the end users served in a designated service area; or a 911 special facility, as defined in 47 C.F.R. 4.5(e). Specifically, the eligible telecommunications carrier's annual report must include information detailing: (a) The date and time of onset of the outage; (b) a brief description of the outage and its resolution; (c) The particular services affected; (d) The geographic areas affected by the outage; (e) Steps taken to prevent a similar situation in the future; and (f) [The number of customers affected.

New Cingular had zero (0) qualified outages for 2011.

**C. New Cingular's Unfulfilled Requests For Service**

Section 69-09-05-12.1(3) of the Commission's Rules require an ETC to annually report the number of requests for service from potential customers within the ETC's designated service area that were unfulfilled during the past year. The filing must also detail how the ETC attempted to provide service to those potential customers. In response to a request for service, New Cingular takes the following steps:

- 1) New Cingular will provide service on a timely basis to requesting customers within New Cingular's service area where New Cingular's network already passes the potential customer's premises.
- 2) If a customer cannot be served by New Cingular's existing facilities, New Cingular will provide service within a reasonable period of time, if service can be provided at reasonable cost by:
  - a) Modifying or replacing the requesting customer's equipment;
  - b) Deploying a roof-mounted antenna or other equipment;
  - c) Adjusting the nearest cell tower;
  - d) Adjusting network or customer facilities
  - e) Reselling services from another carrier's facilities to provide service; or
  - f) Employing, leasing or constructing an additional cell site, cell extender, repeater, or other similar equipment.

If, after these steps, the customer cannot be served, New Cingular will notify the customer and provide the Commission with an annual report of how many requests for service could not be filled. In 2011 New Cingular had zero (0) unfulfilled service extension request.

**D. New Cingular's Complaints Per 1,000 Handsets Or Lines**

Section 69-09-05-12.1(4) of the Commission's Rules require an ETC to annually report the number of complaints per 1,000 handsets or lines. New Cingular has identified the number of complaints received from the Public Service Commission of North Dakota, the Commission, the North Dakota Attorney General, and the Better Business Bureau (BBB), per 1,000 handsets during the 2011 calendar year as 0.2584 per 1,000 handsets. New Cingular believes that this information best represents customer complaints, which is the requirement. Calls into customer care can be for a large variety of reasons and

do not necessarily constitute a complaint, but could instead be an inquiry about service, a question about a bill or so forth. However, customers that send a letter to a state or federal agency, the BBB or an AT&T executive more often than not have a complaint and are not contacting the company with an inquiry.

**E. New Cingular's Certification Regarding Applicable Service Quality Standards And Consumer Protection Rules**

Section 69-09-5-12.1(5) of the Commission's Rules requires an ETC to certify that it is complying with applicable service quality standards and consumer protection rules. New Cingular's compliance with the terms and conditions of the CTIA Consumer Code for Wireless Service meets this requirement. New Cingular certifies that it has complied and will continue to comply with the principles set forth therein. The certification of Hardmon Williams, III, Vice President/General Manager for New Cingular is attached as Exhibit B.

**F. New Cingular's Certification Regarding Its Ability To Function In Emergency Situations**

Section 69-09-05-12.1(6) of the Commission's Rules requires an ETC to certify an ability to function in emergency situations. . AT&T Mobility has in place emergency operation procedures so that it can function in an emergency. Backup power is provided at switch locations and cell sites through a combination of batteries, portable generators and permanent generators. New Cingular also has mobile switches and portable COWs (Cells on Wheels) that it can deploy in the event of an emergency. Based on the foregoing, New Cingular certifies it is able to function in emergency situations. See Exhibit B.

**G. New Cingular's Certification Regarding Its Provision Of A Comparable Local Usage Plan New Cingular's Certification Regarding Its Provision Of A Comparable Local Usage Plan**

Section 69-09-05-12.1(7) of the Commission's Rules requires an ETC to certify it is offering a local usage plan comparable to the incumbent local exchange carrier ("ILEC") in the relevant service areas. In the *ETC Report and Order*, the Commission declined to adopt a specific local usage threshold

or require that an applicant match the incumbent LEC's offering.<sup>1</sup> Rather, the Commission concluded that the comparability of rate plans should be evaluated on a case-by-case basis, in consideration of the number of included minutes, the size of the "local" calling area, monthly price, and other factors.<sup>2</sup>

While the inherent differences between mobile phone service and landline service make an exact comparison unfeasible, New Cingular offers calling plans that provide customers local usage that is comparable to the incumbent LECs when taking into account all of the additional benefits of New Cingular's current service offerings. New Cingular currently offers post-paid calling plans that include nationwide long distance calling and roaming within the United States. New Cingular also offers an Unlimited Rate Plan which offers unlimited calling within the United States. Most of New Cingular's currently offered post-paid calling plans include unlimited nights and weekend minutes, while some of the lower priced plans offer generous allotments of night and weekend minutes. Most currently offered post-paid calling plans offer unlimited mobile calling between New Cingular customers, and allow the customer to rollover unused minutes for use in subsequent months. Further, New Cingular's calling plans currently offer all of the following features at no extra charge: Voice Mail, Caller ID, Call Forwarding, Call Waiting, and Three-Way Calling. In addition to these calling plans, New Cingular also offers an option for prepaid or pay-as-you-go wireless service. All of New Cingular's calling plans inherently include the added value of being mobile and as such increases the value of New Cingular's calling plans.

Based on the foregoing, New Cingular certifies that it offers and will continue to offer at least one local usage plan comparable to that offered by the ILEC in the relevant designated service area. See Exhibit B.

**H. New Cingular's Certification Regarding the Commission's Ability to Require It to Provide Equal Access**

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<sup>1</sup> *Federal-State Joint Board on Universal Service*, Report and Order, CC Docket. No. 96-45, 20 FCC Rcd 6371, ¶¶ 32, 33 (2005) ("*ETC Report and Order*").

<sup>2</sup> *Id.* at ¶ 33.

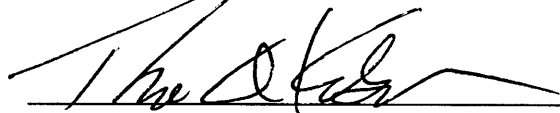
New Cingular hereby certifies that the Commission, pursuant to Section 69-09-05-12.1(8) of the Commissions rules may require it to provide equal access to long distance carriers in the event that no other ETC is providing equal access within the service area. See Exhibit B.

**III. CONCLUSION**

New Cingular has provided all of the information required by NDAC Section 69-09-05-12.1 for its annual report for 2011.

Dated: July 30, 2012

New Cingular Wireless PCS, LLC

A handwritten signature in black ink, appearing to read 'Thomas D. Kelsch', is written over a horizontal line.

THOMAS D. KELSCH  
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BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF NORTH DAKOTA

Annual Certification of NEW )  
CINGULAR WIRELESS PCS, LLC ) DOCKET NO. PU-11-086  
Eligible Telecommunications Carrier )

**CERTIFICATION**

I, Hardmon Williams III, do hereby certify as follows:

1. I serve as Vice President/General Manager for AT&T Mobility LLC, and its subsidiary New Cingular Wireless PCS, LLC ("New Cingular"). My business address is 4300 Market Pointe Drive, Suite 350, Bloomington, Minnesota 55435.
2. In my capacity as Vice President/General Manager, I am an authorized representative of the Company and its subsidiary licensees and am authorized to execute this certification on behalf of New Cingular.
3. New Cingular has been designated as an Eligible Telecommunications Carrier ("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, In the Matter of the Application of New Cingular Wireless PCS, LLC for Designation as an Eligible Telecommunications Carrier, order, ND. PUC Case No. PU-11-86 (July 13, 2011).
4. New Cingular meets the following requirements pursuant to NDAC Section 69-09-05-12.1:
  - a) New Cingular is committed to remaining functional in emergency situations as required by NDAC Section 69-09-05-12.1(6). As described in the Application for Designation as an Eligible Telecommunications Carrier and its Annual Report for calendar year 2011, 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.
  - b) NDAC §69-09-05-12.1(5) requires that New Cingular comply with applicable service quality standards and consumer protection rules. New Cingular complies with the Cellular Telecommunications and Internet Association's (CTIA) Consumer Code for Wireless Service ("Code").
  - c) NDAC Section 69-09-05-12.1(7) requires that New Cingular offer a local usage plan comparable to that offered by an incumbent local exchange carrier ("ILEC") in the

relevant designated service area. While the inherent differences between mobile phone service and landline service make an exact comparison unfeasible, 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 advantage of the mobile nature of wireless service are taken into account. For example, customers that choose the AT&T Nation<sup>®</sup> or the AT&T FamilyTalk<sup>®</sup> calling plans do not pay additional long distance charges for calls made within the United States. The AT&T Nation<sup>®</sup> and AT&T FamilyTalk<sup>®</sup> 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<sup>®</sup> 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 New Cingular's service offerings, are comparable to the ILEC's calling plans.

- d) New Cingular acknowledges that pursuant to NDAC §69-09-05-12.1(8), the Federal Communications Commission ("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 ETC Designated Area.

I hereby certify under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.


Executed on July 25, 2012.



Hardmon Williams III  
Vice President/General Manager  
Minnesota/Northern Plains Market

Signed at Bloomington, Minnesota

Subscribed and sworn to before me  
This 25<sup>th</sup> day of July, 2012.

  
Notary Public

