

- 4 As a wireless ETC, AT&T Mobility receives federal High Cost Support that enhances its capability to provide extended network coverage and reliable service quality in ETC designated service areas. In order to receive federal High Cost Support, the Commission must certify annually to the FCC and the Universal Service Administrative Company (USAC) that AT&T Mobility will use federal support for the provision, maintenance, and upgrading of facilities and services for which the support is intended.²
- 5 On June 28, 2006, the Commission adopted WAC 480-123 on ETC designation and annual certification, effective July 29, 2006. AT&T Mobility must meet all requirements in WAC 480-123-070 and WAC 480-123-080 to obtain the Commission's annual certification to the FCC and the USAC³ or receive approval from the Commission that allows the Company an exemption from specific requirements.
- 6 On July 31, 2006, AT&T Mobility submitted a petition to the Commission requesting a permanent exemption or, in the alternative, a partial exemption from WAC 480-123-070(6) and WAC 480-123-030(1)(g). The Commission denied the Company's request for a permanent exemption; but granted a temporary exemption subject to the condition that the Company provide four hours of back-up power at all Priority 1 and -98 decibel (db) cell sites⁴ using reliable power sources including battery, fixed generator or fuel cells within two years.⁵ The exemption expired on February 15, 2009.
- 7 On March 6, 2009, AT&T Mobility filed a compliance report and requested a limited extension of the partial exemption. It reported that all but three Priority 1 and -98 db coverage cell sites have complied with the four-hour back-up power requirement. It requested either a permanent exemption or a temporary exemption for the three priority and coverage cell sites. The Commission granted a temporary exemption for the three cell sites until September 10, 2010⁶ (Phase I). On July 30, 2010, the Company reported that the required upgrades to the three previously non-compliant cell sites were completed before the deadline.
- 8 On August 3, 2009, AT&T Mobility filed a request for clarification⁷ or, in the alternative, an extension to bring all its non-priority cell sites within its ETC designated area in compliance. The Commission granted a temporary exemption from the battery back-up requirement for all non-priority cell sites until July 1, 2012 (Phase II) with three conditions: (1) AT&T Mobility must provide four hours of back-up power at all new cell

² 47 C.F.R. § 54.313-314.

³ WAC 480-123-060.

⁴ AT&T Mobility classifies cell sites into two categories: (1) Priority 1 and -98 decibel (db) cell sites; (2) non-priority cell sites or capacity cell sites.

⁵ UT-063060, Order 01.

⁶ Docket UT-063060, Order 03.

⁷ In its petition, AT&T Mobility asked the commission to clarify whether UT-063060 Order 01 required AT&T Mobility to install any additional back-up power at its existing non-priority cell sites within its ETC designated area.

sites constructed during this period; (2) AT&T Mobility must include a compliance status report on back-up power upgrades in its annual ETC filing with the Commission; and (3) AT&T Mobility must file a final compliance report upon completion of the back-up power upgrades or on the expiration of the temporary exemption, whichever occurs first.⁸

DISCUSSION

- 9 AT&T Mobility now seeks a permanent exemption or, in the alternative, a one-year extension from the back-up power requirement for two cell sites. The Company states that upgrading back-up power at non-priority cell sites in Phase II is generally very difficult and costly. The Company encountered challenges due to zoning restrictions, structural limitation and lease expansion.
- 10 Staff agrees with the Company that an exemption is warranted for several reasons. First, the two cell sites provide additional capacity but not additional cellular signal coverage. There is one hundred percent coverage overlap between each of the cell sites and their adjacent cell sites that all meet the minimum four-hour back-up rule. Second, in case of emergency power outages, the Company has a number of portable generators and several “Cells on Wheels” which can be readily deployed to these locations to alleviate the risk of an extended power outage and communication failure.
- 11 Furthermore, the FCC recently implemented the intercarrier compensation and universal service fund reform. The reform will phase out the traditional federal High Cost Support for competitive ETCs from July 1, 2012, to June 30, 2016. AT&T Mobility anticipates that it will receive less federal High Cost Support in 2012 as a result.
- 12 The Company informed Staff that it will have a temporary solution for the two cell sites. A one-year period should give the Company sufficient time to upgrade the back-up power. Staff finds that a one-year extension of the exemption is consistent with the public interest, the purposes underlying regulation, and applicable statutes and that the extension should be granted.
- 13 Staff recommends a one-year extension of the exemption for the two cell sites instead of a permanent exemption. WAC 480-07-110 provides that the Commission may grant an exemption from or modify the application of its rules in individual cases. The Commission refrains from granting blanket, permanent exemptions from its rules because circumstances may change in the future.

⁸ *Id.*

FINDINGS AND CONCLUSIONS

- 14 (1) The Commission has jurisdiction over Eligible Telecommunications Carriers in Washington and the subject matter of this Order pursuant to WAC 480-123.
- 15 (2) AT&T Mobility is an ETC designated by the Commission.
- 16 (4) In Docket UT-063060, Order 03, the Commission granted AT&T Mobility a temporary exemption for all non-priority cell sites from the back-up power requirements of WAC 480-123-030(1)(g) and WAC 480-123-070(6) until July 1, 2012.
- 17 (5) With the exception of two cell sites identified in the amended Petition, AT&T Mobility has complied with Order 03.
- 18 (7) The Commission has reviewed the request and the supporting data and finds the request of a one-year extension of the exemption from WAC 480-123-070(6) and WAC 480-123-030(1)(g) for the two cell sites identified in the Company's petition reasonable and consistent with the public interest.

ORDER

THE COMMISSION ORDERS:

- 19 (1) The petition for a permanent exemption from WAC 480-123-070(6) and WAC 480-123-030(1)(g) for the two non-priority capacity cell sites is denied.
- 20 (2) The petition for a temporary exemption of one year from WAC 480-123-070(6) and WAC 480-123-030(1)(g) for the two non-priority capacity cell sites is granted, subject to the condition that the Company must provide a minimum of four hours of back-up power at all new cell sites.
- 21 (2) The Commission retains jurisdiction over AT&T Mobility's ETC designation and the subject matter of this Order.

DATED at Olympia, Washington, and effective May 31, 2012.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner