

Agenda Date: May 31, 2012
Item Number: A1

Docket: UT-063060
Company: New Cingular Wireless PCS, LLC and AT&T Mobility Wireless Operations Holdings, Inc. (collectively “AT&T Mobility”)

Staff: Jing Liu, Regulatory Analyst
Bob Williamson, Utilities Engineer
William Weinman, Assistant Director - Telecommunications

Recommendation

Grant AT&T Mobility’s petition for a temporary exemption of one year from the cell site battery back-up requirement under WAC 480-123-070(6) and WAC 480-123-030(1)(g) for two cell sites identified in the company’s amended petition, subject to the condition that AT&T Mobility must provide at least four hours of back-up power at all new cell sites.

Background

On April 16, 2012, New Cingular Wireless PCS, LLC and AT&T Mobility Wireless Operations Holdings, Inc. (collectively “AT&T Mobility”) (AT&T Mobility or company) filed a request for a permanent exemption for 16 cell sites or, in the alternative, a one-year extension from the cell site battery back-up requirement under WAC 480-123-030(1)(g) and WAC 480-123-070(6). WAC 480-123-030(1)(g) provides, among other things, that a wireless Eligible Telecommunications Carrier (ETC) applicant must demonstrate that it has at least four hours of back-up battery power at each cell site. WAC 480-123-070(6) provides that an ETC must certify that it has the ability to function in emergency situations based on continued adherence to the standards found in WAC 480-123-030(1)(g).

On May 16, 2012, AT&T Mobility filed an amendment to the original petition. The company informed the commission that it has completed battery upgrades in 14 cell sites and now only needs to request an exemption for two cell sites. The company provided updated cost information along with an explanation of the situation for each site.

AT&T Mobility is a Commercial Mobile Radio Service provider licensed by the Federal Communications Commission (FCC). AT&T Mobility was designated by the Washington Utilities and Transportation Commission (UTC or the commission) as an ETC in Washington in 2004 and 2005.¹

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

¹ UT-043011, Order 01 (AT&T Wireless) and Order 02 (Cingular Wireless, for identical service areas).

annually to the FCC and the Universal Service Administrative Company (USAC) annually that AT&T Mobility will use federal support for the provision, maintenance, and upgrading of its facilities and services for which the support is intended.²

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.

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.

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.

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 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

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.

report upon completion of the back-up power upgrades or on the expiration of the temporary exemption, whichever occurs first.⁸

Discussion

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.

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 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.

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 of that order.

The company informed staff that it will have a temporary solution in place for the two cell sites. A one-year period should give the company sufficient time to upgrade the back-up power. The exemption is consistent with the public interest, the purposes underlying regulation, and applicable statutes.

Conclusion

Staff recommends the commission grant AT&T Mobility a temporary exemption of one year for the two identified non-priority capacity cell sites from the four-hour back-up power requirement in WAC 480-123-070(6) and WAC 480-123-030(1)(g), subject to the condition that AT&T Mobility must provide a minimum of four hours of back-up power at all new cell sites.

⁸ *Id.*