

**Before the
Washington Utilities and Transportation Commission**

In the Matter of Eligible Telecommunications Carriers (ETC) Rulemaking, WAC 480-120-311))))	Docket No. UT-053021
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COMMENTS OF CINGULAR WIRELESS

New Cingular Wireless PCS, LLC, Bellingham Cellular Partnership, Bremerton Cellular Telephone Company, Hood River Cellular Telephone Company, and Olympia Cellular Telephone Company (collectively “Cingular”) hereby respectfully submit these limited comments in response to the Proposed Rules by the Washington Utilities and Transportation Commission (“Commission”) for Eligible Telecommunication Carrier (“ETC”) designation and certification in the above referenced docket.

I. INTRODUCTION

As Cingular stated in its previous comments filed in this docket, the Commission is under no obligation to adopt the Rules set forth in the FCC’s *ETC Order*.¹ Cingular appreciates the Commission’s careful review of the *ETC Order*, the impact the Proposed Rules would have on ETCs operating in the State, and the Commission’s statutory obligations. Cingular believes that for the most part the Commission has carefully weighed the burdens associated with additional requirements against the Commission’s obligation to ensure that ETCs in the State are using the federal universal service support in the manner for which it was intended. However, a limited

¹ See In the Matter of the Federal-State Joint Board on Universal Service, Report and Order, (“*ETC Order*”), CC Docket No. 96-45, FCC 05-46, (rel. March 17, 2005)

number of the Proposed Rules continue to impose unnecessary burden without an apparent corresponding benefit. Cingular provides comments below on those Proposed Rules.

II. SUGGESTED CHANGES TO SPECIFIC RULES

A. Service Outage Report

The Proposed Rules define a “service outage” as to exclude a planned outage with a duration of less than five minutes that occurs between 12:00 midnight and 5:00am. (480-123-020) Yet, the Proposed Rules requires an ETC to report “information on every local service outage thirty minutes or longer in duration experienced by the ETC.” (480-123-070(2), emphasis added.) First, these two sections appear to be inconsistent as no reporting is required for any outage lasting less than thirty minutes. Second, the reporting requirements in the Proposed Rules are now inconsistent with the requirements in both the FCC’s *ETC Order* and the FCC’s *Outage Reporting Order*² as they do not set forth any threshold for the number of people affected and conceivably require a report on any degradation in service that lasts over thirty (30) minutes in duration even if it were to affect only one customer.

As discussed in Cingular’s previous comments filed on November 14, 2005, the FCC through its *Outage Reporting Order* already requires all voice providers, including wireless, to report all outages to the FCC, (1) that last at least 30 minutes; and (2) which potentially affect at least 900,000 user-minutes.³ For each reportable outage, the carrier must file a Notification

² See New Part 4 of the Commission’s Rules Concerning Disruptions to Communications, Report and Order and Further Notice of Proposed Rulemaking, ET Docket 04-25, FCC 04-188, (rel. August 19, 2004), (“*Outage Reporting Order*”).

³ *Id.* at ¶¶55 and 56

electronically with the FCC within 120 minutes of discovering the outage; a more detailed Initial Report within 72 hours after discovery of the outage; and a Final Report within 30 days of the outage.⁴ In the Final Report, the carrier must identify whether the outage was at least partially caused by not following engineering standards for full diversity (redundancy).⁵

The Commission may obtain access to all carriers' outage reports filed with the FCC through the federal Department of Homeland Security.⁶ The FCC outage reports provide much more valuable and timely information than the reporting requirements in the Proposed Rules. Following the FCC's already established outage reporting requirements would allow the Commission to gain more timely access to outage information and eliminate the need for redundant and costly filing requirements. Cingular thus respectfully requests that this Proposed Rule not be adopted.

B. Certification of Ability to Function in Emergency Situations

Proposed Rule 480-123-030(1)(g) requires a wireless carrier to demonstrate that it has at least four hours of back-up battery power at each cell site, back-up generators at each microwave hub, and at least five hours back-up battery power along with back-up generators at each switch. As Cingular stated previously in its comments filed on November 14, 2005, it is not clear why the Commission would exert such rigid requirements on ETCs, particularly when the FCC

⁴ *Id.*, ¶ 5.

⁵ *Id.*, ¶ 6.

⁶ *Id.*, ¶ 47 n. 145. In the FCC docket that resulted in adopting of the Outage Reporting Order, the Dept. of Homeland Security (DHS) specifically commented that outage information should be made available by DHS to state public utility commissions through homeland security channels to safeguard the information against disclosure to those who might use the information for hostile purposes. The FCC thus determined that it would make the outage reports available to DHS immediately upon receipt and that DHS could then provide information from the reports to other governmental authorities as appropriate. *See* ¶45.

specifically rejected this requirement in its recent decision. The *ETC Order* requires that an ETC demonstrate that “it has a reasonable amount of back-up power to ensure functionality without external power sources, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.”⁷ The FCC specifically rejected the proposal that would require an ETC to maintain a specific amount of back-up power finding that “such a benchmark is inappropriate because although an ETC may have taken reasonable precautions to remain functional during an emergency, the extreme or unprecedented nature of the emergency may render the carrier inoperable despite any precautions taken”.⁸

Cingular is very concerned about emergency preparedness and has plans in place for the most likely scenarios in all of our areas of service. Cingular believes wireless carriers should be allowed the latitude to put battery back-up in critical cell sites, but not necessarily require four hours of battery back-up to be installed at each and every cell site. Moreover, such a prescriptive requirement serves only to divert federal USF funding which could otherwise be used to increase geographical coverage or network capacity to back-up power requirements that, in many cases, are unnecessary.

The prescriptive battery back-up requirements for cell sites and switch generators is unnecessary and unwarranted. Instead of adopting the requirements in the Proposed Rule, if the Commission believes that a rule is necessary in this area it should mirror the federal requirements.

⁷ *ETC Order* at ¶25

⁸ *Id.*, at ¶26

C. Consumer protection standards

The Proposed Rules require wireless ETCs to demonstrate that they will comply with the CTIA Consumer Code for Wireless Service (“CTIA Code”). (480-123-030(1)(h)) Proposed Rule 480-123-0999(2) adopts the version of the CTIA Code in effect on September 9, 2003. The CTIA Code was intended to be a living document that can be revised and updated as necessary to address changing consumer issues and needs. To ensure that the Proposed Rules reflect the current version of the CTIA Code, it is recommended that subsection (2) of this proposed rule be deleted or the words “as may be amended” be added to this section.

D. Reports in .shp format

Proposed Rule 480-123-080(3) requires ETCs to file maps in .shp format as defined in 480-123-020. While the Commission may very well want to require ETCs to file maps, the Commission should not require that the maps be filed utilizing a certain type of software. The Proposed Rule should be technology-neutral as all ETC Applicants may not have the necessary software to generate maps in .shp format. Further, delineating a specific type of software unnecessarily locks the Commission and carriers into a particular technology that may or may not continue to be used in the future. Cingular thus respectfully recommends that the .shp mapping format requirement in the Proposed Rules be deleted.

III. CONCLUSION

Cingular requests that the Commission carefully consider its comments above and make the corresponding changes to the Proposed Rules.

Respectfully submitted,

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