

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of)	Docket No. UT-123008
T-Mobile West LLC)	
For Certification as an Eligible)	T-MOBILE WEST LLC'S
Telecommunications Carrier Pursuant to)	PETITION FOR CERTIFICATION AS AN
47 U.S.C. § 254(e)(2))	ELIGIBLE TELECOMMUNICATIONS
)	CARRIER

**T-MOBILE WEST LLC'S
PETITION FOR CERTIFICATION PURSUANT TO
ORDER NUMBERS 01 THROUGH 03 IN DOCKET UT-101060,
WAC §§ 480-123-060, 480-123-070 AND 480-123-080,
AND
47 U.S.C. § 254(e)(2)**

T-Mobile West LLC (hereinafter, "T-Mobile" or the "Company") hereby submits this petition for certification as an eligible telecommunications carrier ("ETC") pursuant to Washington Utilities and Transportation Commission ("Commission") Orders No. 01, 02 and 03 in Docket UT-101060 ("*Designating Order*"), Sections 480-123-060 through 480-123-080 of Washington Administrative Code ("WAC") (hereinafter referred to as the "*Washington Certification Requirements*"), and 47 U.S.C. § 254(e)(2).

I. COMMUNICATIONS REGARDING THIS APPLICATION

All correspondence and communications regarding this Application should be addressed as follows:

Mark P. Trinchero
Davis Wright Tremaine LLP
1300 SW Fifth Avenue, Suite 2300
Portland, Oregon 97201
503-778-5318

Teri Ohta
Principal Corporate Counsel
T-Mobile USA, Inc.
12920 SE 38th Street
Bellevue, Washington 98006
425-383-5532

II. BACKGROUND

T-Mobile was designated as an ETC by the Commission on October 14, 2010 in the *Designating Order*. In establishing the *Washington Certification Requirements*, the Commission adopted several annual reporting requirements consistent with the then-existing Federal Communications Commission (“FCC”) rules as established in the *2005 ETC Order*.¹ On October 27, 2011, in its *USF/ICC Transformation Order*, the FCC adopted changes to its universal service rules,² and, on February 6, 2012, in its *Lifeline Reform Order*, the FCC adopted further changes to its universal service rules governing the provision of Lifeline service.³ Among the changes adopted in these two orders, the FCC revised the annual reporting and certification requirements, which are now reflected in 47 C.F.R. § 54.313. In this Annual Certification, T-Mobile addresses each of the reporting requirements adopted by the Commission in the *Designating Order*, in the *Washington Certification Requirements*, and in the updated annual reporting and certification requirements adopted in the *USF/ICC Transformation Order*, and incorporates the identified attachments, some of which contain confidential and proprietary information and will be filed under seal.

Subsequent to T-Mobile’s designation, Commission Staff initiated discussions with T-Mobile regarding the designated service area list (the “Appendix”) attached to and incorporated by reference in the *Designating Order*. Specifically, Commission Staff identified some administrative inconsistencies in the wire center and exchange name listings, and asked

¹ *In the Matter of Federal-State Joint Board on Universal Service*, Report and Order, FCC 05-46, March 17, 2005 (“*ETC Additional Requirements Order*”).

² *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011) (“*USF/ICC Transformation Order*”).

³ *In the Matter of Lifeline and Link Up Reform and Modernization, Report and Order and Further Notice of Proposed Rulemaking*, WC Docket No. 11-42, FCC 12-11, released February 6, 2012 (“*Lifeline Reform Order*”). In its Lifeline Reform Order, the FCC adopted additional requirements for the provision of Lifeline service, including Lifeline reporting requirements, but none of these requirements change an ETC’s high-cost annual reporting obligations under 47 C.F.R. § 54.313.

T-Mobile to consider revising the Appendix. T-Mobile agreed, and on April 5, 2011 filed an amended list of the local exchange carrier wire centers that comprise T-Mobile's designated service area. The Commission accepted T-Mobile's revised filing, adopting the administrative changes in Order Number 02 in Docket UT-101060 with a revised Appendix, which is incorporated herein as Attachment A and represents the list of local exchange carrier wire centers that comprise T-Mobile's designated service area ("Designated Area").

Thereafter, T-Mobile restructured the operating entity that the Commission designated as an ETC in the *Designating Order*. T-Mobile notified the Commission of this change on May 30, 2012, and the Commission granted the change in Order Number 03 in Docket UT-101060 effective June 14, 2012.

III. T-MOBILE'S UNIVERSAL SERVICE SUPPORT

In the *USF/ICC Transformation Order*, the FCC took several steps toward developing a budget for the Universal Service Fund including (among other things) eliminating the identical support rule, limiting the per line high cost support, freezing high cost support for all competitive ETCs ("CETCs") for an interim period of six months in 2012, and phasing down all high cost support for CETCs over a five year period beginning in July 2012. Pursuant to the *USF/ICC Transformation Order*, monthly high cost support for CETCs will be the aggregate support received in 2011 divided by twelve. Beginning in July 2012, CETCs will be subject to a 20 percent per year phase down, with all legacy high cost support to CETCs being eliminated by 2016.

In the calendar year 2011, T-Mobile received a total of \$2,716,347 in federal high cost universal service support for its Washington study area. Based on the computations provided by the Universal Service Administrative Company ("USAC"), T-Mobile currently estimates that it

will receive approximately \$2 million in federal high cost universal service support for its Washington service area in 2012, which is based upon the steps taken by the FCC in the *USF/ICC Transformation Order* (identified above) to reduce legacy funding for CETCs. This estimate is based on current information and may change upon clarification or reconsideration of the rules adopted in the *USF/ICC Transformation Order*.

IV. T-MOBILE'S 2011 ANNUAL CERTIFICATION AND REPORTS

47 U.S.C. § 254(e) requires that an eligible telecommunications carrier receiving federal universal service support "shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended." The FCC later concluded "that states should be required to file annual certification with the Commission to ensure carriers use universal service support 'only for the provision, maintenance, and upgrading of facilities and services for which the support is intended' consistent with Section 254(e)."⁴ Accordingly, included in Attachment B is T-Mobile's annual certification based upon the requirements of 47 U.S.C. § 254(e), the *Designating Order* and *Washington Certification Requirements*, including (among other things) a certification by an officer of the Company that T-Mobile will only utilize federal high cost universal service funds for the purposes for which those funds are intended, which will enable the Commission to make the required annual certification to the FCC. As demonstrated herein, T-Mobile meets all applicable annual certification requirements as described below.

A. 2011 Report on Use of Federal Funds and Benefits to Consumers

Standard 1 of the *Washington Certification Requirements* requires that an ETC submit a report on the federal high cost universal service support it received from January 1 through

⁴ Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, and Report and Order in CC Docket No. 00-256, para. 187.

December 31 of the previous year including a substantive description of investments made and expenses paid with support from the federal high cost fund and a substantive description of the benefits to consumers that resulted from the investments and expenses included therein.⁵ T-Mobile's report regarding its use of federal high cost universal service funding for 2011 is included as Confidential Attachment C. In accordance with Standard 1 of the *Washington Certification Requirements*, T-Mobile will track how the Company spends federal high cost universal service support in 2012 and beyond.

B. Local Service Outages

Standard 2 of the *Washington Certification Requirements* and 47 C.F.R. 54.313(a)(2) require an ETC to make an annual filing of detailed information on any outage, as that term is defined in 47 C.F.R. § 4.5, of at least thirty (30) minutes in duration for each service area in which an ETC is designated for any facilities it owns, operates, leases, or otherwise utilizes that potentially affects at least ten percent (10%) of the end users' service in a designated service area or a 911 special facility during the previous calendar year.⁶ Specifically, the ETC'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 estimated number of customers affected.

⁵ WAC 480-123-070(1).

⁶ WAC 480-123-070(2)

T-Mobile includes as Confidential Attachment D the reportable outages for 2011. In accordance with Standard 2 of the *Washington Certification Requirements* and 47 C.F.R. 54.313(a)(2), T-Mobile will remain vigilant to avoid outages that affect consumers and take any necessary steps to prevent outages from occurring in 2012 and beyond.

C. Failure to Provide Service

Standard 3 of the *Washington Certification Requirements* and 47 C.F.R. 54.313(a)(3) require an ETC to identify the number of requests for service from applicants within its designated service areas that were unfulfilled in the prior calendar year and describe in detail how it attempted to provide service to those applicants.⁷ T-Mobile includes as Confidential Attachment E its unfulfilled requests for 2011. In accordance with Standard 3 of the *Washington Certification Requirements* and 47 C.F.R. 54.313(a)(3), T-Mobile will take the necessary steps to resolve and track any requests for service (as necessary) in 2012 and beyond.

D. Complaints Per 1,000 Handsets

Standard 4 of the *Washington Certification Requirements* requires an ETC to report the number of complaints, per 1,000 handsets, made to the FCC, or (separately) to the consumer protection division of the Office of the Attorney General of Washington during the previous calendar year.⁸ The report must also generally describe the nature of the complaints and outcome of the carrier's efforts to resolve the complaints. 47 C.F.R. 54.313(a)(4) requires an ETC to report the number of complaints per 1,000 connections. T-Mobile includes as Confidential Attachment F its complaints per 1,000 handsets report for 2011, including a general description of the nature of the complaints T-Mobile addressed. In accordance with Standard 4 of the

⁷ WAC 480-123-070(3).

⁸ WAC 480-123-070(4).

Washington Certification Requirements and 47 C.F.R. 54.313(a)(4), T-Mobile will take the necessary steps to resolve any customer complaints in 2012 and beyond.

E. Certification of Compliance with Applicable Service Quality Standards

Standard 5 of the *Washington Certification Requirements* requires an ETC to certify that it met substantially the applicable service quality standard found in WAC 480-123-030(1)(h). 47 C.F.R. 54.313(a)(5) similarly requires an ETC to certify that it meets the applicable service quality standard. In both requirements, for a wireless ETC, compliance with CTIA-The Wireless Association's® ("CTIA") Consumer Code for Wireless Service ("Consumer Code") meets this requirement.⁹ T-Mobile is a signatory to the Consumer Code, which is the applicable service quality and consumer protection standard for wireless carriers. T-Mobile has been consistently certified by CTIA as being compliant with this code since 2003. T-Mobile was most recently re-certified by CTIA as being compliant with this code on October 7, 2011. A copy of T-Mobile's most recent letter confirming its certification from CTIA is included as Attachment G. Included in Attachment B is T-Mobile's certification that it is complying with applicable service quality standards and consumer protection rules.¹⁰

F. Certification of Ability to Function in Emergency Situations

Standard 6 of the *Washington Certification Requirements* requires an ETC to annually certify that it had the ability to function in emergency situations based on continued adherence to the applicable standards, including that it has (1) at least four hours of back-up battery power at

⁹ WAC 480-123-070(5); WAC 480-123-030(h).

¹⁰ See CTIA-The Wireless Association's® Consumer Code for Wireless Service, *available at* http://files.ctia.org/pdf/The_Code.pdf. Signatories to the CTIA Consumer Code agree to: (1) disclose rates and terms of service to consumers; (2) make available maps showing where service is generally available; (3) provide contract terms to customers and confirm changes in service; (4) allow a trial period for new service; (5) provide specific disclosures in advertising; (6); separately identify carrier charges from taxes on billing statements; (7) provide customers the right to terminate service for changes to contract terms; (8) provide ready access to customer service; (9) promptly respond to consumer inquiries and complaints received from government agencies; (10) abide by policies for protection of customer privacy; and (11) provide consumers with free notifications for voice, data, and messaging usage, and international usage.

each cell site (“Standard 6.1”); (2) back-up generators at each microwave hub (“Standard 6.2”); and (3) at least five hours back-up battery power and back-up generators at each switch (“Standard 6.3”).¹¹ 47 C.F.R. 54.313(a)(6) similarly requires an ETC to certify its ability to function in emergency situations.

1. Back Up Power at Cell Sites

Except for a relatively small percentage of cell sites within its Designated Area that were the subject of a temporary exemption, T-Mobile has at least four (4) hours of back-up power at each cell site. Any cell sites that do not have at least four (4) hours of back-up power are located within the signal coverage of nearby cell sites that satisfy the four (4) hour back up requirement, which means T-Mobile customers would still have near complete coverage in the affected areas in the event of a loss of power supply to any of the cell sites that do not directly meet the requirement. Nevertheless, in the *Designating Order*, the Commission granted T-Mobile a Temporary Exemption from the Requirement of Four Hours of Back-Up Power at Each Cell Site (the “Exemption”) for a number of existing cell sites. The Exemption allows T-Mobile to use reliable power sources other than battery to meet the four-hour back-up standard and a period of four (4) years to complete the necessary upgrades to meet the standard. The Exemption also required T-Mobile to (a) provide four (4) hours of back-up power at all new cell sites constructed in the Designated Area, subject to its right to seek exemption from the requirement if warranted; (b) include a compliance status report on back-up power upgrades in its annual certification filing; and (c) file a final compliance report upon completion of the necessary upgrades or at the expiration of the Exemption, whichever occurs first.

¹¹ WAC 480-123-070(6); WAC 480-123-030(g).

a. New Cell Sites

All new cell sites constructed by T-Mobile meet the four (4) hour back-up power requirement.

b. Status Report

T-Mobile continues to reassess the unique circumstances that existed at the time of the installation of each of the cell sites subject to the Exemption and is taking steps to make modifications necessary to bring the reserve power at the affected cell sites into compliance with the applicable requirement, where possible. In general, many of the cell sites without the direct requisite back-up battery power are “micro” cells that enhance “in-building” coverage and are, therefore, in space constrained areas that limit T-Mobile’s ability to locate standard back-up power resources on site. Additionally, most of the cell sites subject to the Exemption are connected to building power sources for normal operation that would default to a building wide reserve power resource in the case of a loss of standard power, which may meet or exceed the requirement separately. Some sites have other varying constraints, including pole attachments which have space constraints and building rooftop sites which have load limit constraints. Nonetheless, T-Mobile is taking steps to make modifications as necessary, and includes as Confidential Attachment H a status update on each of the cell sites subject to the Exemption.

c. Final Compliance Report

T-Mobile has not completed upgrades to all of the cell sites included in the Exemption and the Exemption period has not expired, therefore, no final compliance report is required.

Subject to the Exemption described above, included in Attachment B is T-Mobile's certification that it meets Standard 6.1 of the *Washington Certification Requirements*.

2. Back Up Generators at Microwave Hubs

T-Mobile has back-up generators at each microwave hub providing service within its Designated Area. Included in Attachment B is T-Mobile's certification that it meets Standard 6.2 of the *Washington Certification Requirements*.

3. Back Up Power/Generators at Switches

T-Mobile has at least five (5) hours back-up battery power and back-up generators at each switch that provides service within its Designated Area. Included in Attachment B is T-Mobile's certification that it meets Standard 6.3 of the *Washington Certification Requirements*.

T-Mobile also generally prepares for emergency situations by making capital improvements to the network, undertaking preventative maintenance, training personnel, and continually monitoring its network elements in accordance with 47 C.F.R. § 54.201(a)(2), which sets forth three (3) areas of demonstration with respect to remaining functional in an emergency situation: back-up power to ensure a functioning network; network redundancy for re-routing; and how traffic spikes are addressed.

a. Back-up power

In addition to complying with Standard 6 of the *Washington Certification Requirements*, subject to the Exemption, T-Mobile also maintains portable back-up power generators at various network locations that it can deploy in emergency situations.

b. Ability to Reroute Traffic Around Damaged Facilities

T-Mobile has the ability to re-route traffic around damaged out-of-service facilities through the deployment of cell-on-wheels (“COWs”), redundant facilities, and dynamic re-routing of traffic over alternate facilities.

c. Ability to Manage Traffic Spikes During Emergency Periods

T-Mobile has a network control center that monitors network traffic and anticipates traffic spikes, and can: (i) deploy network facilities to accommodate capacity needs; (ii) change call routing translations; and (iii) deploy COWs to temporarily meet traffic needs until more durable solutions, such as additional capacity and antenna towers, can be deployed.

Included in Attachment B is T-Mobile’s certification that it meets Standard 6 of the *Washington Certification Requirements* which also meets the requirement in 47 C.F.R. § 54.313(a)(6).

G. Advertising Certification

Standard 7 of the *Washington Certification Requirements* requires an ETC to annually certify that it has publicized the availability of its applicable telephone assistance programs, such as Lifeline, in a manner reasonably designed to reach those likely to qualify for service, including to residents of federally recognized Indian reservations within the ETC's designated service area.¹² Included in Attachment I are some examples of the advertising that T-Mobile completed in its Designated Area in 2011. Included in Attachment B is T-Mobile’s certification that it appropriately advertised the availability of its telephone assistance program in a manner reasonable designed to reach those likely to qualify for service in accordance with Standard 7 of the *Washington Certification Requirements*.

¹² WAC 480-123-070(7).

H. Annual Plan for Universal Service Support Expenditures

The *Washington Certification Requirements* also require an ETC to report on the planned use of federal support related to Washington state that will be received during the period October of the current year through the following September, including a substantive plan of the investments and expenditures to be made with federal support, and a substantive description of how those investments and expenditures will benefit customers.¹³

T-Mobile's report on the use of federal high cost universal service support that it will receive from October 1, 2012 through September 30, 2013 is included in its Service Improvement Plan for Washington and is filed as Confidential Attachment J. T-Mobile's Service Improvement Plan identifies projected network improvements and upgrades that will be funded with universal service funds in 2012 and 2013 improving signal quality, coverage, and/or capacity. All cell site construction and site modification projects are designed to improve signal quality, coverage, and capacity, and switch upgrades are designed to improve service quality and capacity. The Service Improvement Plan further identifies other expenditures for the provision, maintenance, and upgrading of facilities used to deliver supported services to consumers consistent with 47 U.S.C. § 254(e).

The selection of the projects in the Service Improvement Plan is based on the Company's evaluation of many factors, including, but not limited to, current consumer demand, competitive forces, long term planning, available capital, and others. As these factors change, the Service Improvement Plan may be modified. In addition, forces beyond the Company's control (for example, zoning issues related to cell site placement) may result in modifications to planned projects or timelines. As a result, the content and timing of the projects in the Service Improvement Plan are subject to change. In addition, if the actual amount of federal high cost

¹³ WAC 480-123-080.

universal service funding received varies from the amount currently estimated, T-Mobile reserves the right to modify its Service Improvement Plan accordingly. Any modifications will be reported as required in Standard 1 of the *Washington Certification Requirements* in T-Mobile's 2013 Annual Certification filing.

I. ADDITIONAL ANNUAL REQUIREMENTS IN THE AMENDED FCC RULES

In its *USF/ICC Transformation Order*, the FCC adopted three new annual reporting requirements: submission of an ETC's price offerings, information on an ETC's affiliated operations and branding, and documentation of coordination with the Tribal governments within an ETC's service area. The FCC has determined that ETCs are not required to submit this information until 2013, except for the submission of ETCs' price offerings.¹⁴ T-Mobile includes as Attachment K information on its price offerings.

V. ADDITIONAL T-MOBILE REQUIREMENTS

The Commission granted T-Mobile's request for ETC designation subject to two conditions. Condition 1(a) of the *Designating Order* required T-Mobile to comply with all applicable federal and Washington state statutes and regulations, including E911 tax contributions. T-Mobile confirms its compliance herein.

Condition 1(b) of the *Designating Order*, related to Low Income support and eligibility, requires T-Mobile to provide the number of Lifeline customers and its receipt of federal low income support. The Commission also requires T-Mobile to submit a copy of its Annual Verification Survey report made to the Universal Service Administrative Company ("USAC") regarding its Lifeline customers' continued eligibility for Lifeline, and based upon a review of

¹⁴ *In the Matter of Connect America Fund, et al.*, Order, DA 12-147, February 3, 2012 ("*USF/ICC Clarification Order*").

that information, the Commission reserved the right to impose more rigorous customer eligibility verification requirements on T-Mobile.

A. Low Income Subscribership and Support

T-Mobile includes, as Confidential Attachment L, its report identifying the total number of Lifeline customers it had as of December 31, 2011 and the total amount of federal low income support it received in 2011, in compliance with condition 1(b) of the *Designating Order*.

B. Annual Verification Survey

T-Mobile is in the process of performing its annual verification and has not yet reported the results to USAC. Once submitted, T-Mobile will provide the Commission, through a supplemental filing, a copy of its submitted Annual Verification Survey results, as reported to USAC, for its Designated Area in Washington, in compliance with condition 1(b) of the *Designating Order*.

VI. CONCLUSION

Based on the foregoing information, T-Mobile respectfully requests the Commission approve its petition for annual certification and certify to the FCC and USAC that T-Mobile is eligible to receive federal universal service support in accordance with 47 § U.S.C. 254(e)(2).

Respectfully submitted this 31st day of July, 2012.

T-Mobile West, LLC

Teri Ohta
Principal Corporate Counsel
T-Mobile USA, Inc.
12920 SE 38th Street
Bellevue, Washington 98006
425-383-5532

By: 

Mark P. Trinchero
Davis Wright Tremaine LLP
1300 SW Fifth Avenue, Suite 2300
Portland, Oregon 97201
503-778-5318