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April 19, 2005

Ms. Carole J. Washburn, Executive Secretary  
Washington Utilities and Transportation Commission  
1300 South Evergreen Park Drive SW  
Olympia, WA 98504-7250

Re: In the Matter of Amending the Designation of AT&T Wireless, et al.  
For Designation as an Eligible Telecommunications Carrier Under 47  
U.S.C. § 214 (e)(2) – Docket No. UT-043011

Dear Ms. Washburn:

The Washington Independent Telephone Association (“WITA”) respectfully requests that the Commission undertake a close examination of the Petition to Amend the Designation as an Eligible Telecommunications Carrier (“Petition to Amend”) submitted by AT&T Wireless/Cingular. There are two, related reasons for this request.

The first reason is that AT&T Wireless is already drawing substantial sums from the federal universal service fund and the Petition to Amend, which would add the Cingular subscribers as eligible for support from the federal universal service fund, will substantially increase the size of that draw. The second reason is that the Federal Communications Commission (“FCC”) has recently adopted a Report and Order that strongly urges state commissions to take a much closer look at the designation of competitive ETCs.<sup>1</sup>

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

Basis for Request

1. Cingular (AT&T Wireless) draws substantial amounts of Federal USF support which will increase significantly if the Petition to Amend is granted.

Cingular characterizes the Petition to Amend as a simple matter of reflecting the merger of AT&T Wireless and Cingular. WITA believes that it is more than that. Based upon reports posted by the Universal Service Administrative Company ("USAC"), Cingular is projected to draw \$8,716,428.00 from the federal universal service fund in 2005.<sup>2</sup> Based on what appears to be reported to USAC, adding the Cingular subscribers for rural company study areas<sup>3</sup> will bring the total to \$13,507,440.00 for 2005.<sup>4</sup> These are significant sums of money. For the rural study areas, the total that Cingular is projected to draw from the Federal USF is \$9,534,264.00 if the Cingular customers are added as requested in the Petition to Amend. This more than doubles the amount of federal universal service support based on rural study area numbers. Under any circumstance, these are huge sums of money and deserve closer scrutiny.

To place these amounts in perspective, it is projected that all ETCs in the state of Washington will receive approximately \$87,000,000.00 on a combined basis. Cingular's total, assuming the Petition to Amend is granted, represents over 15% of this amount. It is significant that a wireless carrier receives such a large percentage of the total funds provided in the state of Washington.<sup>5</sup>

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<sup>2</sup> USAC Report HC01, Second Quarter 2005 Projections.

<sup>3</sup> The USAC reports separate the rural telephone companies (those that meet the definition of a rural telephone company as contained in the Telecommunications Act of 1996 – normally small companies serving rural areas) and non-rural companies. In Washington, Qwest and Verizon are non-rural companies. All of WITA's members fall in the rural company category.

<sup>4</sup> USAC Report HC01, Line 2018. It is not clear from the USAC report that this amount correlates with Cingular's request. However, this line is noted as "not yet eligible," so the assumption is that it represents the additional Cingular subscribers. Cingular has not, as of this date, provided the number of additional lines or the resulting federal universal service support that will result from its request. Without definitive information from Cingular, the analysis in these comments is based on the assumption described in this footnote.

<sup>5</sup> All wireless carriers, including Cingular, are projected to receive nearly \$22,000,000.00 in 2005 in the state of Washington. This represents an amount approaching 22% of the total funds projected to be provided in the state of Washington.

2. The FCC's ETC Designation Order calls for closer review of competitive ETC applications.

Under the FCC's recent ETC Designation Order, the FCC found that there should be a much closer examination of applicants for competitive ETC status. The FCC declined to mandate that state commissions adopt the FCC requirements.<sup>6</sup> The FCC did strongly urge state commissions to consider the standards that the FCC promulgated.<sup>7</sup>

Among the requirements that the FCC adopted, which WITA believes this Commission should also adopt, is a requirement that an applicant for competitive ETC designation submit "a formal network improvement plan that demonstrates how universal service funds will be used to improve coverage, signal strength, or capacity that would not otherwise occur absent the receipt of high-cost support."<sup>8</sup> Specifically, the applicant seeking ETC designation must show how it will use universal service support "to improve service within the service areas for which it seeks designation."<sup>9</sup>

The FCC went on to state that the applicant must "submit a 5-year plan describing with specificity its proposed improvements or upgrades to the applicant's network on a wire center-by-wire center basis throughout its designated service area."<sup>10</sup> The FCC established specific requirements for the showing. The demonstration must include how signal strength, coverage or capacity will improve due to the receipt of high-cost support throughout the area for which the ETC seeks designation; the projected start date and completion date for each improvement; the estimated amount of investment for each project that is funded by high-cost support; the specific geographic areas where the improvements will be made; and the estimated population that will be served as a result of the improvements.

Very significantly, the FCC stated that ETC applicants' showing must be provided "for each wire center in each service area for which they expect to receive universal service support, or an explanation of why service improvements in a

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<sup>6</sup> ETC Designation Order at ¶61.

<sup>7</sup> ETC Designation Order at ¶58.

<sup>8</sup> ETC Designation Order at ¶21.

<sup>9</sup> ETC Designation Order at ¶23.

<sup>10</sup> ETC Designation Order at ¶23.

particular wire center are not needed and how funding will otherwise be used to further the provision of supported services in that area.”<sup>11</sup> This requirement is significant because it ties support received for service in a particular service area to use of the funds in that service area.

An example for Cingular may help explain this point. Cingular reports that it has 1,456 supported lines in the Kalama Telephone Company service area.<sup>12</sup> Based on the information contained in USAC Reports HC01 and HC18, high-cost support in the Kalama service area is at \$33.23 per line. This means that Cingular is projected to receive over \$580,000.00 in 2005 for the Kalama service area. How is Cingular going to use those funds to improve service in the Kalama service area?

As another example, Cingular reports that it has 9,524 supported lines in the Ellensburg service area at a supported amount of \$13.45 per line, per month.<sup>13</sup> This produces a total projected amount for 2005 of \$1,537,000.00 for the Ellensburg service area. How is Cingular going to use those funds to improve service in that service area?

In addition to the financial considerations, which are critical, there are other aspects in the ETC Designation Order that WITA suggests the Commission take into account. For example, the FCC requires ETC applicants to demonstrate the ability to remain functional in emergency situations.<sup>14</sup> The FCC requires that ETC applicants provide a specific commitment to consumer protection.<sup>15</sup> The FCC requires a commitment to serve the entire service area for which the applicant expects to receive support.<sup>16</sup> The FCC requires the ETC applicant to demonstrate that it offers a local usage plan comparable to the one offered by the incumbent LEC in the service areas for which designation is sought.<sup>17</sup>

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<sup>11</sup> Ibid (emphasis added).

<sup>12</sup> USAC Report HC18.

<sup>13</sup> USAC Report HC18.

<sup>14</sup> ETC Designation Order at ¶25.

<sup>15</sup> ETC Designation Order at ¶28.

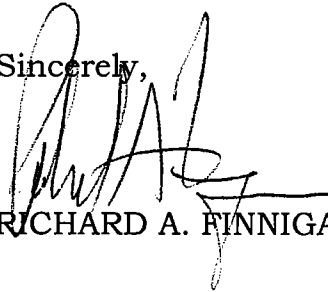
<sup>16</sup> ETC Designation Order at ¶22 and ¶29.

<sup>17</sup> ETC Designation Order at ¶32.

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These and other issues should be given strong consideration before the Commission passes on a purported "simple" amendment to a Petition that will allow Cingular to receive upwards of \$4,800,000 in additional funds on an annual basis from the federal universal service support.

Sincerely,



RICHARD A. FINNIGAN

RAF/km

cc: Chairman Sidran  
Commissioner Oshie  
Commissioner Jones  
Bob Shirley  
Cindy Manheim  
Clients (via e-mail)

**CERTIFICATE OF SERVICE  
UT-043011**

I hereby certify that I have served the attached letter to Carole J. Washburn on behalf of the Washington Independent Telephone Association by U.S. mail, postage prepaid, to the following:

Cindy Manheim, Esq.  
Senior Counsel – Regulatory  
Cingular Wireless  
7277 – 164<sup>th</sup> Avenue NE  
Redmond, WA 98052

I further certify that I have filed the original and nine copies of the attached letter to Carole J. Washburn on behalf of the Washington Independent Telephone Association by hand delivery to the following:

Ms. Carole J. Washburn, Executive Secretary  
Washington Utilities and Transportation Commission  
1300 South Evergreen Park Drive SW  
Olympia, WA 98504-7250

Dated this 19th day of April, 2005.

  
Kathy McCrary