

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

Cingular's Request for Permanent Waiver or in the Alternate a Temporary Waiver of WAC 480-123-070(6) Regarding Eligible Telecommunications Carrier Requirements))))	Docket No. UT- Petition
--	------------------	--------------------------------

PUBLIC OR REDACTED VERSION

Bellingham Cellular Partnership; Bremerton Cellular Telephone Company, Hood River Cellular Telephone Company; New Cingular Wireless PCS, LLC; and, Olympia Cellular Telephone Company (collectively "Cingular") submit this Petition to respectfully request a permanent waiver of certain subsections of the rules recently promulgated by the Washington Utilities and Transportation Commission ("Commission") applicable to Eligible Telecommunications Carriers ("ETC"), specifically WAC 480-123-070(6) which references WAC 480-123-030(1)(g). As an alternative, Cingular requests a two (2) year extension of time to bring all of its existing cell sites into compliance with this requirement. For either alternative, Cingular also requests a waiver to comply with the back up battery requirement by utilizing either back up batteries or back up power (e.g. generators or a combination of a generator and a battery).

1. Cingular is a commercial mobile radio service ("CMRS" or "wireless") provider that is designated by the Commission as an ETC in certain areas in the state of Washington for the purpose of receiving federal universal service support. By way of history, AT&T Wireless Services was designated as an ETC in Washington on April 13, 2004. Just a few months later on October 26, 2004 AT&T Wireless Services, Inc. was acquired through a merger with a

subsidiary of Cingular Wireless Corporation resulting in AT&T Wireless Services, Inc. becoming a wholly owned subsidiary of Cingular Wireless LLC. Cingular thus amended the previous AT&T Wireless designation to reflect the new legal entities, but no changes were made to the ETC designated service area. Cingular was granted this designation on April 29, 2005.

2. After initiating a rulemaking, Docket UT-053021, the Commission ultimately issued an Order Amending and Adopting Rules regarding ETCs and filed with the Code Reviser on June 28, 2006 ("Order"). The rules go into effect on July 29, 2006. Cingular participated in this rulemaking and previously provided comments on its concern regarding the requirement to have four (4) hours of battery back up at all of its cell sites within the ETC designated area.

3. WAC 480-123-070(6) requires ETCs to certify the ability to function in emergency situations based on continued adherence to the standards found in WAC 480-123-030(1)(g). WAC 480-123-030(1)(g) requires wireless providers to have, among other things, "four hours of back up battery power at each cell site". Cingular does not meet this requirement today and in fact it will place significant hardship on Cingular to bring its cell sites into compliance with this requirement.

4. Based on its significant experience and expertise in operating its network, Cingular has developed internal standards for the prudent and responsible operation of its network. Cingular's internal standard is to generally require *******Redacted*******
¹ In Cingular's experience ****Redacted******* of back up power at a cell site has been more than adequate to protect against most commercial power outages. In fact, most unplanned outages are not driven by lack of power, but instead are due to problems with the infrastructure

¹ As this is an internal standard there may be some sites that do not have a full ****Redacted**** power due to various limitations or factors with a particular cell site such as space limitations or environmental concerns. All cell sites, however, generally have some back-up power available. For example, Cingular has some very small cell sites located inside buildings and back-up may be available through the building's generators.

that the wireless carrier leases from the landline carrier (e.g. T-1 that connects the cell site to the switch), or equipment failure with the cell site such as a radio failing or something happening with the switch. Historically when there has been a commercial power outage such as in a major storm scenario, there are usually factors other than power, such as T-1 outages, that extend the time the site is down. Further, in many cases when a single cell site is without power, customers can often receive some coverage via a neighboring cell site. In addition, as described in more detail below, Cingular has portable generators and other equipment it can deploy in the case of a natural disaster.

5. Cingular takes major outages caused by a natural or other disaster very seriously. In fact, Cingular has recently invested fifty (50) million dollars to manage Cingular's emergency-response nation-wide. Cingular's goal is to be as prepared as possible whenever and wherever disaster hits; to be able to restore any wireless service outages as quickly as possible; and to assist with overall relief efforts, wherever they may occur, as much as possible. In this regard, Cingular has recently conducted mock disaster drills and unveiled its Mobile Access Command Headquarters (MACH 1 and MACH 2) vehicles to manage relief and recovery efforts. These fully equipped, completely self-sufficient centers can be deployed rapidly into affected areas. These vehicles have generators, a satellite dish for constant communications, LAN connectivity and a PBX phone system. Assisting with recovery efforts are two emergency communications SUVs with military-grade satellite communications systems for Internet access, multi-channel VOIP and radio communications. In addition, Cingular has twenty-three portable generators in Washington that can be easily moved to any cell site and are located in several locations in the state and also a number of Cells on Wheels (COWs) which are portable cell sites

that can be used for a temporary event. This continuity plan provides Cingular with the flexibility to respond quickly with the right resources wherever they are needed.

6. Cingular currently has *Redacted* cell sites in the areas in which it has been designated as an ETC in Washington. Bringing all of these sites into compliance with the four (4) hour battery back-up requirement will require substantial time and resources. Since these rules were only enacted a month ago, Cingular has not had the opportunity to completely assess the impact of this requirement on a cell site by cell site basis. Based on preliminary estimate, Cingular believes that bringing all of its *Redacted* existing cell sites into compliance with the four (4) hour battery back up requirement could cost between approximately **Redacted**². The reason that Cingular does not have a precise estimate for the cost that it will incur is that it will vary based on the situation of the individual cell site and during this short period of time Cingular has not been able to conduct such a detailed analysis. By way of example, cell sites with batteries that are older than five (5) years cannot simply have new batteries added to bring the battery back up time to four (4) hours. Instead, Cingular must completely replace the batteries at these sites as it is not a safe practice to mix older batteries with new batteries.

7. In addition to the staggering cost, there are a number of other factors that may limit Cingular's ability to come into full compliance with this requirement. The first is space constraints at the cell site. Four hours of battery back-up would require two cabinets approximately eight (8) feet by three (3) feet each or twenty-four (24) square feet of ground space. If additional space is not available at the existing location, Cingular will be forced to find another space. Although Cingular has not yet completed a full analysis of possible space limitations, Cingular currently believes that approximately fifteen (15) to twenty (20) percent of

² This is based on the best information available to Cingular at this time. With respect to anticipated ETC support, it is very difficult to estimate the amount to be received this far in advance; however, based on the information we have today, Cingular believes it will receive approximately twenty-four (24) million dollars annually.

its cell sites will have space limitations that may prevent compliance with this requirement. . There can also be additional issues that pose a challenge such as weight issues with rooftop installations.

8. For all of these reasons, Cingular requests a waiver from the requirement to have four hours of battery back up at each and every site within its ETC designated area. Cingular will instead commit to ******Redacted****** having two (2) hours of back up power at every cell site. As explained in more detail below, allowing Cingular to utilize back up power at every cell site instead of back up battery provides greater flexibility in deployment thereby reducing cost, while still achieving the Commission's goal of ensuring continued availability of telecommunications service in the event of a power outage. Further, Cingular commits that all of the cell sites that it builds in 2007 and thereafter within its ETC designated area will include four hours of back-up power either through batteries, a permanent generator, or some combination thereof.

9. Granting Cingular a waiver from this requirement will be in the public interest. Forcing Cingular to expend substantial resources on back up batteries is not justified especially when it is only in rare circumstances that a commercial power outage is the factor leading to the extended outage of a cell site and not some other component and when Cingular can use neighboring cell sites, portable generators, and other means that it utilizes today to continue service when a commercial power outage occurs.

10. Cingular also requests a partial waiver or clarification of the rule that would permit Cingular to fulfill the battery back-up requirement by utilizing battery back-up, a permanent generator or some combination thereof. Based on its initial analysis Cingular believes that it will cost substantially less money, to install generators or a battery back-up/generator combination at its cell sites. In general a permanent generator costs far less than battery back up

power, on average it is a *******Redacted******* dollar savings per cell site. Another benefit of utilizing generators is that there would likely be enough fuel to last well beyond the current four (4) hour requirement.³ Generators also need replacing less often than batteries. For many cell sites, therefore, generators are the most cost-effective back up power option.

11. As with solely using battery back up, there are, however, some limitations with using generators. For example, some landlords have historically objected to having a fuel source (e.g. propane or gas) on their property. In addition, depending on the type of fuel source powering the generator there may be jurisdictional limitations such as fire codes, building codes and such may prevent the fuel source from being utilized at the location. For these reasons, Cingular requests the discretion to use generators in certain situations where it makes financial and operational sense to do so.

12. If the Commission does not grant Cingular a waiver from the four (4) hour battery back up requirement, Cingular will need approximately two year to bring its system into compliance with this newly enacted rule. Cingular, therefore, requests that the Commission waive the rule through the end of calendar 2008. Further, if the Commission only grants Cingular a waiver to allow it to use any backup power, instead of a backup battery, Cingular will still need approximately two years to bring its systems into compliance with this newly enacted rule.

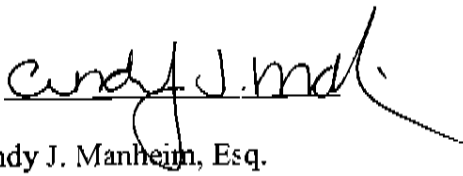
WHEREFORE, for the foregoing reasons, Cingular requests that the Commission grant Cingular a permanent waiver of its obligation to comply with the requirements in WAC 480-123-070(6) which references WAC 480-123-030(1)(g) and to instead require Cingular to have two (2) hours of backup power at its existing sites within Cingular's ETC designated area and four

³ If for some reason that Commission did not grant Cingular its permanent waiver from the four (4) hour battery backup requirement for existing cell sites, the ability to use a combination of back up batteries and generators to comply would result in a substantial savings.

(4) hours back up power for all cell sites built in 2007 and thereafter. Cingular also requests that the Commission allow Cingular to use backup power, instead of a back-up battery with this requirement. If the Commission does not grant Cingular its primary request for a permanent waiver, Cingular requests a temporary waiver for two (2) years to bring its cell sites into compliance with the newly enacted requirements.

Respectfully submitted,

July ~~28~~ 2006

By 

Cindy J. Manheim, Esq.
Senior Counsel – Regulatory
Cingular Wireless
PO Box 97061
Redmond, WA 98073-9761

Attorney for Bellingham Cellular Partnership,
Bremerton Cellular Telephone Company, Hood
River Cellular Telephone Company, Inc., New
Cingular Wireless PCS, LLC, and Olympia Cellular
Telephone Company, Inc.