

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

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|------------------------------------|---|--------------------------|
| In the Matter of the Request of |) | DOCKET UT-063065 |
| |) | |
| |) | ORDER 01 |
| CINGULAR WIRELESS, |) | |
| |) | ORDER GRANTING TEMPORARY |
| |) | EXEMPTION FROM THE |
| For a Temporary Exemption from the |) | REQUIREMENTS OF |
| Requirements of WAC 480-123-070(2) |) | WAC 480-123-070(2) |
| |) | |

1 **Synopsis:** *Cingular Wireless (Cingular) is an eligible telecommunications carrier (ETC) that requested a temporary exemption from the requirements of WAC 480-123-070(2). The Commission grants the temporary exemption for the filing made in 2006.*

BACKGROUND

2 Cingular is subject to WAC 480-123-070(2) and on July 31, 2006, it requested a temporary exemption from its obligation to report under the subsection in the 2006 filing. The subsection requires that ETCs report local service outages. The report must include detailed information on every local service outage 30 minutes or longer in duration experienced by the ETC. The report must include:

- (a) The date and time of onset and duration of the outage;
- (b) A brief description of the outage and its resolution;
- (c) The particular services affected, including whether a public safety answering point (PSAP) was 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.

3 The Commission adopted on June 28, 2006, new rules that apply to ETCs. The rules became effective July 29, and the first reports and certifications required by the new rules were due on July 31. The purpose of the rules is to permit the Commission to determine if ETCs have used federal high-cost support in the manner prescribed by law. This

purpose is achieved by collection of readily available information. Cingular receives annually approximately \$24 million in federal support. The federal support is used by Cingular to increase service to consumers in Washington.

4 Certification by the Commission to the Federal Communications Commission (FCC) that Cingular “will use federal high-cost universal service fund support only for the provision, maintenance, and upgrading of the facilities and services for which the support is intended” is required for Cingular to continue receiving federal support. *47 C.F.R. § 54.313, 314*. Cingular cannot obtain that certification if it does not comply with WAC 480-123-070(2) or receive a temporary exemption. *WAC 480-123-060*.

5 In its report filed July 31, Cingular provided some of the service outage information required by subsection (2), but not all of the information.

6 At the Commission meeting on September 13, 2006, the Commission requested more information from Cingular about its outages. In response, Cingular examined trouble tickets for 2005 and determined that it could report more instances of service outages. Cingular filed the additional information with the Commission prior to our meeting on September 27, 2006.

DISCUSSION

7 Cingular states that prior to adoption of WAC 480-123-070(2), Cingular was not required to maintain records of all the information required by the rule and was not required to retain the information for any other reporting function.

8 Cingular states that it is unable to report on the estimated number of customers affected, even for those local service outages in 2005 it was able to report.

9 Commission staff reports that Cingular has represented that the company’s difficulties in providing information about 2005, and the company’s inability to be certain it has reported all instances of outages in 2005, are due to the effects of a merger in late 2004 between AT&T Wireless and Cingular. The company represented that each company continued using its own outage reporting and trouble ticket process into August 2005 and that is the cause of the uncertainty about the completeness of the information.

Commission staff also noted that Cingular was not an ETC for the period January through April 2005.

- 10 Cingular has also represented that it expects its new information system to permit it to report accurately and completely the number of outages for 2006.
- 11 Commission staff concludes that this lack of information in the first year in which reports are required will not create any insurmountable problem for the Commission as it collects and analyzes the information for succeeding years. Commission staff states that Cingular's representation concerning the company's expectation that it will be in a position to comply completely with the rule in 2006 provides support for the conclusion that a temporary exemption is reasonable.
- 12 The Commission has provided exemptions in individual cases when to do so is consistent with the public interest, the purposes underlying regulation, and applicable statutes. Commission staff has provided an analysis that supports finding that granting Cingular's request will not be inconsistent with the public interest, the purposes underlying regulation, and applicable statutes. We adopt Commission staff's analysis.

SUMMARY FINDINGS AND CONCLUSIONS

From the foregoing, the Commission finds and concludes:

- 13 (1) The Commission has jurisdiction over Cingular and the subject matter of this proceeding.
- 14 (2) Cingular has reported information concerning outages in 2005, but is unable to state that it is certain it has reported all outages for that period.
- 15 (3) The lack of information that will result from the temporary exemption will not create any insurmountable problem for the Commission as it collects and analyzes information in succeeding years.

- 16 (4) The request for a temporary exemption is not inconsistent with the public interest, the purposes underlying regulation, and applicable statutes.

ORDER

- 17 (1) The temporary exemption from WAC 480-123-070(2) is granted for the filing made in 2006.

DATED at Olympia, Washington, and effective September 27, 2006.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner