

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

<b>In the Matter of</b>	)	
	)	
<b>Sunset of the Requirement that Cellular</b>	)	<b>WT Docket No. 01-108</b>
<b>Systems Maintain Analog Transmission</b>	)	
<b>Capacity Through February 18, 2008</b>	)	
<b>Rule Section 22.901(b)</b>	)	

**OPPOSITION OF AT&T MOBILITY LLC  
TO PETITION FOR RULEMAKING**

On November 30, 2006, the Alarm Industry Communications Committee (AICC) and ADT Security Services, Inc. (ADT) filed a Petition for Rulemaking (AICC/ADT PFR) seeking to extend the cellular analog sunset for an additional two years until February 18, 2010. In addition to the allegations contained in the AICC/ADT PRF, the alarm industry cites the comments filed in the captioned proceeding by AICC on February 21, 2006 (AICC Comments) and the *ex parte* filed on October 5, 2006 by ADT (ADT *ex parte*). In this opposition, AT&T Mobility LLC, f/k/a Cingular Wireless LLC (Cingular) will address the claims made in all three documents. For the reasons set forth below, Cingular opposes the request to initiate a rulemaking to extend the analog sunset.<sup>1</sup>

**I. Background.**

When the Commission first licensed cellular carriers in 1981, it required each carrier to provide service using the then-existing compatibility standard for analog systems known as Advanced Mobile Phone Service (AMPS). This requirement furthered two Commission goals, i.e. it allowed customers to use their existing handsets when roaming in other parts of the country, and it allowed customers to switch to the

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<sup>1</sup> The requirement that cellular carriers maintain analog service until February 18, 2008 is codified at 47 C.F.R. § 22.902(b) of the Commission's rules. That date is referred to herein as the "analog sunset".

competing cellular provider in their home markets without having to purchase new handsets.<sup>2</sup> The requirement to provide analog service using the AMPS technical standard was imposed only on the two cellular carriers operating in each geographic market. When the Commission licensed additional Commercial Mobile Radio Service (CMRS) licensees using other technologies, i.e. Personal Communications Services (PCS) and wideband Specialized Mobile Radio Services (SMRS), no analog service requirement was imposed. The analog service requirement today applies not only to the two nationwide cellular licensees, Cingular Wireless and Verizon Wireless, that are required to file reports with the Commission, but also to numerous smaller cellular service providers that provide analog service.<sup>3</sup>

In the *NPRM* the Commission sought comment on whether it should modify or eliminate the rules governing the provision of analog service given the rapid growth in the mobile telephony industry.<sup>4</sup> The Commission noted that there may be some consumers who lacked digital alternatives to analog service, especially those with hearing

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<sup>2</sup> Year 2000 Biennial Regulatory Review—Amendment of Part 22 of the Commission’s Rules to Modify or Eliminate Outdated Rules Affecting the Cellular Radiotelephone Service and other Commercial Mobile Radio Services, WT Docket No. 01-108, Report and Order, 17 FCC Rcd 18401 (2002) (“*Report and Order*”) at ¶ 5. The Commission originally licensed two cellular carriers per geographic market, the A Block and B Block licensees.

<sup>3</sup> Several smaller cellular service providers have stated that they will continue to provide analog service after the analog sunset where customer demand remains sufficient. See, e.g., Plateau Telecommunications, Inc., Analog Cellular Status Report, DA 05-3015 (Feb. 21, 2006) at 3 (“Plateau does not intend to discontinue AMPS service in its market areas following the sunset of AMPS. Plateau intends to continue the provision of AMPS service for as long as customers continue to use this service, or have a need for this service, in its markets.”); Easterbrooke Cellular Corporation, Report on Status of Compatible Analog Cellular Services, WT Docket No. 01-108 (Feb. 17, 2006) at 2 (“At this time Easterbrooke has no plans to terminate AMPS at existing sites, but it expects to reduce AMPS radios as demand declines and spectrum is needed for digital.”).

<sup>4</sup> Year 2000 Biennial Regulatory Review—Amendment of Part 22 of the Commission’s Rules to Modify or Eliminate Outdated Rules Affecting the Cellular Radiotelephone service and other Commercial Mobile Services, Notice of Proposed Rulemaking 16 FCC Rcd 11169 (2001) (“*NPRM*”) at ¶ 23.

disabilities and those with emergency-only handsets, and emphasized that it would not take any action that would undermine service to those individuals.<sup>5</sup>

In the *Report and Order* the Commission determined that the public interest would be served by the elimination of the analog requirement:

After reviewing the record, we conclude that in light of the present competitive state of mobile telephony, the nationwide coverage achieved by cellular carriers, and the clear market demand for nationwide, ubiquitous coverage by carriers, the analog requirement has substantially achieved its purpose of ensuring that the public has access to low-cost, compatible equipment and to nationwide roaming. Not only do we determine that the rule is no longer necessary to achieve its purpose, we conclude that it imposes costs and impedes spectral efficiency. The development of the mobile telephony industry further leads us to find that these objectives can largely be accomplished by market forces without the need for regulation. We therefore conclude that the analog requirement should be removed. However, eliminating the rule immediately without a reasonable transition period would be extremely disruptive to certain customers, particularly those with hearing disabilities as well as emergency-only consumers, who currently continue to rely on analog services and lack digital alternatives. Accordingly, we modify our rules requiring application of the analog compatibility standard to include a sunset period of five years, during which time we anticipate the problems regarding access will likely be resolved.<sup>6</sup>

While the Commission adopted the five year analog sunset to protect classes of consumers who lacked a digital alternative, it rejected calls by service providers to retain the analog requirement to protect their operations.

We find that it is not necessary to retain the analog requirement in order to ensure competition. Indeed, we conclude that continuing to require carriers to operate consistent with the AMPS standard may hinder competition by causing spectral inefficiencies and increased costs to those carriers who would prefer to concentrate on digital technology. ..We are unpersuaded by arguments made by certain service providers that we must continue to impose a twenty-year old technical standard on cellular

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<sup>5</sup> NPRM at ¶¶ 26-30.

<sup>6</sup> *Report and Order* at ¶ 8.

carriers as a whole in order to prevent possible disruptions to their operations.<sup>7</sup>

Specifically, the Commission rejected requests by telematic service providers that the analog requirement be retained because analog cellular service was vital to their businesses.

We conclude that the arguments advanced by telematics providers do not constitute sufficient bases to warrant the indefinite imposition of an outdated technical standard. Each of the factors identified by telematics providers—*e.g.* development cycles of vehicles, choice of hardware and technology platforms—are considerations within the control of the individual provider or the original equipment manufacturers with whom it partners. We are not persuaded that the public interest requires us to accommodate the voluntary business decisions of telematics providers to offer services that require wide area wireless coverage and to deploy such services using analog technology.<sup>8</sup>

The Commission noted that the sunset period it was adopting for other reasons would give service providers time to develop multimode devices that would facilitate interoperability and roaming on digital networks. It encouraged service providers to partner with CMRS carriers in order to secure services on the carriers' digital networks.<sup>9</sup> The Commission reiterated that the five-year sunset was adopted to accommodate certain groups of *consumers* that “may not have readily available and accessible economic or technical alternatives to analog service.”

[W]e are aware that there are particular *classes of consumers*, such as those that use emergency-only telephones and persons with hearing disabilities, who do not currently have readily available digital alternatives and would be unduly affected by the immediate elimination of analog service. Accordingly, we conclude that the public interest favors the adoption of a five-year transition to elimination of the analog rule.<sup>10</sup>

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<sup>7</sup> Id. at ¶ 10.

<sup>8</sup> Id. at ¶ 19.

<sup>9</sup> Id. at ¶ 20.

<sup>10</sup> Id. at ¶ 22.(Emphasis added)

AT&T Wireless challenged the legality of the five-year transition in a petition for reconsideration. AWS asked that the five-year sunset be shortened to no more than 30 months. A group of telematics providers filed an opposition, raising many of the same arguments advanced by AICC/ADT now. The telematics providers argued that public safety concerns warranted retention of the five-year analog sunset. They noted that applications such as automatic crash notification and stolen vehicle tracking and recovery capabilities enhance public safety and law enforcement.<sup>11</sup> They stated that telematics devices are embedded in vehicles and cannot be easily retrofitted.<sup>12</sup> The devices are dependent on vehicle life cycles<sup>13</sup>, and new vehicles have an average life expectancy of 7-9 years.<sup>14</sup> They argued that analog is the only ubiquitous network<sup>15</sup> and that purchasers of vehicles with telematics devices embedded in them have an expectation that the services provided by these devices will continue to work.<sup>16</sup>

Each of these arguments is now being advanced by AICC/ADT as justification for extending the analog sunset for an additional two years. The difference is that the telematics providers made these arguments more than *three years ago*. They also immediately began work on digital alternatives with their manufacturer-partners and, as a result, digital devices have been developed and are now being deployed, almost *two years before* the sunset date. The progress made by telematics providers in converting to

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<sup>11</sup> In the matter of Year 2000 Biennial Regulatory Review—Amendment of Part 22 of the Commission’s Rules to Modify or Eliminate Outdated Rules Affecting the Cellular Radiotelephone Service and other Commercial Mobile Radio Services, WT Docket No. 01-108, Opposition of American Honda Motor Co., Inc., et al. to the Petition for Reconsideration of AT&T Wireless Services, Inc. (April 1, 2003) (Telematics Opposition) at 17-19.

<sup>12</sup> Telematics Opposition at 23.

<sup>13</sup> Telematics Opposition at 22.

<sup>14</sup> Telematics Opposition at 22.

<sup>15</sup> Telematics Opposition at 19-20.

<sup>16</sup> Telematics Opposition at 23.

digital is exemplified by the report filed by OnStar in response to the Public Notice.

OnStar reports that today all new OnStar units are dual mode digital/analog systems.

OnStar has communicated with its subscribers regarding the analog sunset, and General

Motors announced an upgrade program in the latter part of 2006. OnStar concludes:

While OnStar supported a longer transition to more fully mitigate the impact on vehicle owners, OnStar has moved expeditiously to keep subscribers and potential subscribers informed of the Commission's ruling and its implications. Concurrently, as a result of aggressive engineering efforts by manufacturers electing to continue to offer telematics service, the development, validation and launch of dual mode analog/digital hardware has been accomplished.<sup>17</sup>

In their opposition to the AWS reconsideration petition, the telematics providers sought to have the Commission expand the justification for the five-year analog sunset to include the impact on telematics providers and their customers.<sup>18</sup> The Commission declined to do so. In the *Order on Reconsideration* the Commission reiterated that the impact on telematics providers and their customers "derive from business decisions that are generally within the control of the individual provider..."<sup>19</sup> The Commission nevertheless noted:

In this regard, we continue to believe that the five-year period is desirable to smooth the transition from analog to digital. ... Similarly, a five-year period will give telematics providers time to partner with various carriers to secure services on the carriers' digital networks and develop multimode devices that will provide interoperability and facilitate roaming on digital networks. Further, given the public safety uses of many telematics devices, the five-year transition will allow continued access to such

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<sup>17</sup> OnStar 2/21/06 Comments at 4.

<sup>18</sup> Telematics Opposition at 24 ("The impact of the digital transition on telematics services provide an adequate and independent basis for the Commission's decision to implement a five year transition period, and accordingly, for its rejection of AWS' Petition.")

<sup>19</sup>Year 2000 Biennial Regulatory Review-Amendment of Part 22 of the Commission's Rules to Modify or Eliminate Outdated Rules Affecting Cellular Radiotelephone Service and Other Commercial Mobile Radio Services, WT Docket No. 01-108, Orpder on Reconsideration, 19 FCC Rcd. 3239 2004) ("*Order on Reconsideration*") ¶ 32.

applications for a reasonable period of time until telematics providers are able to switch their customers over to digital technology.<sup>20</sup>

Thus, the Commission made it clear that it is the responsibility of businesses utilizing analog cellular in providing services to their customers to develop business plans that recognize the impending sunset and find other ways to serve their customers. Nothing in the AICC Comments, the ADT *ex parte* or the AICC/ADT PFR would justify the extension of the analog sunset if the alarm industry failed to heed the Commission's admonition.

## **II. The AICC/ADT PRF does not justify a rulemaking proceeding to extend the analog sunset.**

The AICC/ADT PFR seeks to bootstrap language in the November 30, 2005 *Public Notice* into a Commission concern about the impact of the analog sunset on providers of alarm services.<sup>21</sup> The *Public Notice* reminded the two nationwide cellular licensees, Cingular Wireless and Verizon Wireless, of their obligation to file reports on the availability of hearing aid compatible handsets and digital E-911 only handsets. Although not required by the *Report and Order*, the *Public Notice* also asked for information about other users of analog service, including alarm companies.<sup>22</sup> AICC/ADT attempt to leverage this request for information into an expansion of the scope of the proceeding to include the interests of alarm companies. While the *Public Notice* did invite interested parties other than the intended beneficiaries of the sunset to file comments with the Commission, the *Public Notice* cannot overrule the Commission's express holding that the interests of businesses that utilize the analog networks of cellular

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<sup>20</sup> Order on Reconsideration, ¶ 33.

<sup>21</sup> AICC/ADT PFR at 9-190.

<sup>22</sup> Public Notice, p. 3.

carriers are insufficient to justify the sunset, and they are surely insufficient to justify extension of the sunset.

The AICC/ADT PFR claims that the Commission should undertake a rulemaking proceeding to extend the analog sunset date by two years because it lacks sufficient digital equipment to meet the needs of over one million customers who have analog cellular equipment, presumably as a backup to wireline connections to the alarm company's central station.<sup>23</sup> AICC/ADT claims that over 26 million central station alarm systems currently are installed in homes and businesses in the United States.<sup>24</sup> If these figures are correct, they demonstrate that less than 4% of central station alarm customers have an analog cellular connection to the central station. What kinds of connections do the other 96% of alarm customers utilize? AICC/ADT acknowledge that the alarm industry uses Part 90 radio frequencies for alarm signaling, but it does not quantify the use of Part 90 frequencies.<sup>25</sup> If, as AICC claims, Underwriters Laboratories, the National Fire Code and insurance companies require two communications paths<sup>26</sup>, it is clear that in the overwhelming majority of cases the second path is provided by something other than an analog cellular network. The AICC/ADT PFR is silent with regard to how this second path is provided in almost all cases. In the absence of complete information from the alarm industry, the Commission should not consider instituting a rulemaking.

AICC/ADT claim that the Commission adopted the analog sunset to “meet the needs of certain classifications of consumers, such as persons with hearing disabilities, telematics providers, and emergency-only users (e.g. the elderly and battered women)

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<sup>23</sup> AICC/ADT PFR at 2.

<sup>24</sup> AICC/ADT PRF at 10

<sup>25</sup> AICC/ADT PFR at 4

<sup>26</sup> AICC/ADT PFR at 4

who continue to rely on analog service due to the lack of digital alternatives.”<sup>27</sup> As Cingular demonstrated above, the *Report and Order* and the *Order on Reconsideration* made it clear that the transition period was adopted to enable certain classes of *consumers* to find digital alternatives to AMPS service. Both orders made it clear that *businesses* were responsible for the consequences of their own business decisions. Consumers with hearing disabilities and emergency-only phone users are the class of customers that the transition was designed to benefit. Thus, the rule that adopted the analog sunset requires cellular carriers to “Maintain the capability to provide compatible analog service (‘AMPS’) to cellular telephones designed in conformance with the specifications contained in the [ANSI standard]”<sup>28</sup> and to “Provide AMPS, upon request, to subscribers and roamers using such cellular telephones...”<sup>29</sup> There is no requirement in the rule to provide AMPS service to anyone else, including alarm companies.

In the *Report and Order* the Commission made it clear that the analog sunset was designed to benefit only the users of mobile telephones, not other users of the analog network. In response to complaints by numerous local governments that the analog sunset would adversely affect highway call boxes that utilize the analog cellular networks, the Commission clarified that the rule adopting the analog sunset was limited to users of mobile telephones. The Commission held that highway call boxes are not covered by the rule because they are not *mobile* devices.<sup>30</sup> As with the telematics providers, the Commission noted that the five year transition period afforded local

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<sup>27</sup> AICC/ADT PFR at 8.

<sup>28</sup> 47 C.F.R. § 22.901(b)(1).

<sup>29</sup> 47 C.F.R. § 22.901(b)(2)

<sup>30</sup> *Report and Order*, 17 FCC Rcd at 18416, fn. 82.

agencies a reasonable period of time to transition highway call boxes from analog to digital technology.

The AICC/ADT PFR seeks to justify an extension of the analog sunset by claiming that digital alarm radios are only now becoming available.<sup>31</sup> It offers no explanation as to why this is so. The AICC/ADT PFR claims that the alarm industry failed to recognize the impact of the analog sunset on their operations until three years into the transition.<sup>32</sup> This is precisely the kind of business decision, or lack thereof, that the Commission held was the responsibility of businesses that use the analog cellular network to provide service to their customers.

The AICC/ADT PFR claims that none of the nationwide cellular carriers undertook to advise AICC member companies of the upcoming sunset date, so that they could internally ramp up for the replacement effort and prod the equipment manufacturers into developing the necessary replacement equipment and making sufficient quantities commercially available in time to meet the February 18, 2008 sunset.<sup>33</sup> This is not true. Cingular has been working since 2003 with alarm companies to facilitate conversion from analog to digital prior to the sunset. The AICC/ADT PFR confirms that ADT knew about the AMPS issue in sufficient time to contact a major alarm manufacturer about digital replacement radios by 2004, a year after the analog sunset order.<sup>34</sup> The alarm industry had ample notice of the analog sunset.

The Commission's *Report and Order* and *Order on Reconsideration* were published in the Federal Register. Federal Register publication constitutes constructive

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<sup>31</sup> AICC/ADT PFR t 10-13.

<sup>32</sup> AICC/ADT PFR at 24.

<sup>33</sup> AICC/ADT PFR at 24..

<sup>34</sup> AICC/ADT PFR at 12.

notice to affected parties of changes in the Commission's rules. The Commission imposed no requirement on the carriers to notify their customers prior to the interim report due February 21, 2006.

AICC/ADT claim that cellular carriers' digital coverage is not as extensive as their analog coverage areas and that there are thus some areas where analog alarm radios cannot be replaced by digital radios.<sup>35</sup> Cingular's GSM network is co-extensive with its analog coverage. Digital service is available over Cingular's GSM network in all geographic areas where Cingular will be discontinuing AMPS. Cingular has never represented to the alarm industry that it will be able to provide coverage to 100 per cent of their client locations.

The AICC/ADT PFR claims that there are only a limited number of GSM alarm radios commercially available and no CDMA radios available.<sup>36</sup> There are numerous Cingular-certified devices that can be adapted to alarm panel applications. On Cingular's *Specialty Vertical Device* (non-stock) list there are a number of modules from various manufacturers that are candidates for this type of application. In addition to Telular, L3 and TransTel both manufacture similar POTS line-alternative solutions. There are also many CDMA-based devices on the market that can be adapted to alarm panel applications. Other major alarm industry companies have had digital solutions available for over a year. The largest analog-based data value added resellers developed alternative solutions using major manufacturer modules nearly two years ago. Telematics providers have reported to the Commission that they have developed and are deploying digital alternatives to analog. Contemporary digital alarm backup and telematics solutions use

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<sup>35</sup> AICC/ADT PFR at 13-14.

<sup>36</sup> AICC/ADT PFR at 14-15.

virtually identical wireless solutions. AICC/ADT's claim that digital alternatives do not currently exist is simply wrong.

AICC/ADT claim that regardless of equipment availability, there is simply not enough time between now and the sunset to replace more than a million analog alarm radios.<sup>37</sup> They claim that the replacement of each radio will take approximately three man-hours and, even if it had digital replacement radios, the time required to identify specific locations and schedule a truck roll to replace them would be well over two years.<sup>38</sup>

While alarm companies maintain enough technicians on staff to accommodate new orders and routine maintenance of existing customers, these companies do not currently have the extraordinary level of staffing that will be needed to change out more than a million radios in a mere two years. It will take several months to ramp up for such an undertaking.<sup>39</sup>

This is an explicit admission by the alarm industry that they let the first three years of the analog sunset go by operating business-as-usual. The Commission should not consider shifting the burden of the alarm industry's inaction to cellular carriers and their customers.

In its Comments, AICC asserts that the cost to the customer for this replacement will be \$450-\$750 *plus the cost of equipment*.<sup>40</sup> The Commission may reasonably assume that a significant number of alarm customers will balk at incurring this kind of cost for what is essentially a back-up channel. Until the alarm industry actually starts its digital replacement program, it is entirely speculative and unrealistic to assume that all, or even a significant number, of existing analog customers will agree to pay for a digital

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<sup>37</sup> AICC/ADT PFR at 15.

<sup>38</sup> AICC/ADT PFR at 15-16.

<sup>39</sup> AICC/ADT PFR at 16.

<sup>40</sup> AICC Comments at 8.

replacement. Alarm companies market analog cellular backup as a value added feature, not a system requirement.

AICC/ADT claim that the current sunset will adversely affect victims of domestic violence.<sup>41</sup> They cite to the national ADT AWARE® that provides abused spouses with “panic buttons” to summon help in an abuse situation.<sup>42</sup> ADT does not provide information as to how many of its “panic buttons” have been deployed. ADT acknowledges that digital equipment is becoming available,<sup>43</sup> but offers no support for its claim that analog “panic buttons” cannot be replaced by digital alternatives during the remaining time prior to the sunset. At a minimum, before considering a rulemaking to extend the sunset, the Commission should require ADT to provide information about how many people participate in the ADT AWARE® program and why they cannot be provided with digital “panic buttons” during the remaining life of the sunset. Since the persons supplied with “panic buttons” are known, ADT offers no explanation as to why these locations cannot be given priority digital replacements.

AICC/ADT also claims that there are numerous victims of domestic violence who use fixed alarm radios to summon help. It attempts to lump these domestic violence victims into the “protected class” of emergency-only phone users identified in the *Report and Order*.<sup>44</sup> It therefore claims that the alarm industry must replace all existing AMPS radios “in order to ensure that all abuse victims remain protected.”<sup>45</sup> In the *Report and Order* and *Order on Reconsideration* the Commission did not create a “protected class” of all victims of domestic violence. The Commission identified customer who had

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<sup>41</sup> AICC/ADT PFR at 18-22.

<sup>42</sup> AICC/ADT PFR at 19-20.

<sup>43</sup> ADT ex parte at 8.

<sup>44</sup> AICC/ADT PFR at 21.

<sup>45</sup> AICC/ADT PFR at 21.

received “emergency-only” analog handsets, and predicated the analog sunset on providing those customers with donated digital replacement handsets. That goal has been accomplished. Most groups providing “emergency-only” handsets do not provide and do not accept analog-only handsets for distribution to victims of domestic violence, and there is an abundance of donated digital handsets to meet the needs of these customers. The Commission did not create a “protected class” that includes every victim of domestic violence that happens to subscribe to an alarm-monitoring service.

AICC/ADT claim that in specifying the five-year sunset period, the Commission predicted that by February 18, 2008 digital alternatives would be widely available to classes of customers who were forced to rely upon analog service as of the time the AMPS Sunset Order was released in September of 2002. It claims that those predictions have proved untrue in the case of AMPS alarm customers, and that case law holds that the Commission must review its predictive judgments when circumstances change.<sup>46</sup>

As demonstrated above, the Commission very carefully limited the class of consumers that were the intended beneficiaries of the five-year sunset to hearing impaired and emergency-only consumers using analog telephones. As to these classes of customers, the Commission’s predictive judgment has proven correct. Hearing impaired customers have a large number of hearing aid compatible handsets to choose from, and the rapid turn-over of digital handsets as new models are introduced has made an abundant supply of donated digital handsets available for emergency-only consumers. The Commission made no predictive judgment regarding other users of analog service, such as customers of service providers, expressly because the business decisions of those providers would determine whether their customers’ needs would be met. The alarm

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<sup>46</sup> AICC/ADT PFR at 22-23.

industry was never mentioned in the *Report and Order*, so clearly the Commission made no predictive judgment about the availability of digital alarm monitoring equipment. The Commission is under no legal duty to extend the analog sunset because of the business decisions of the alarm industry.

AICC/ADT asks the Commission to remind cellular carriers of their obligation under the existing rules to maintain adequate analog cellular capability until the sunset.<sup>47</sup> Cingular is well aware of the requirement to maintain adequate analog service until the sunset. However, Cingular's ability to do so is impaired because the analog network equipment needed to maintain analog service is manufacturer-discontinued. Cingular is reusing analog equipment to maintain the network at considerable cost, but there will come a time when that is no longer possible. Both Cingular and the network equipment manufacturers have relied upon the impending analog sunset in their business plans. There is no reason for the Commission to extend an enormous cost burden on Cingular to accommodate the alarm industry. There is also no need to conduct a rulemaking to "remind" carriers of their obligations under the existing rules.

#### **IV. The analog sunset serves the public interest.**

In the *Report and Order* the Commission found that the public interest would be served by eliminating the analog requirement. Specifically, the Commission found that the analog requirement increased costs to the effected carriers, reduced spectral efficiency and thereby impeded competition.<sup>48</sup> These factors are even more pressing today than

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<sup>47</sup> AICC/ADT PFR at 26-28.

<sup>48</sup> See *Report and Order*, ¶ 12 ("Thus, to the extent that a cellular carrier incurs costs to operate an analog network that it would not maintain but for the analog requirement, we conclude that the rule imposes unnecessary financial burdens and hinder spectral efficiency. These factors in turn impede the ability of the cellular carrier to compete vis-à-vis other mobile telephony providers who are not subject to the requirement.")

when the *Report and Order* was adopted in 2002. As Cingular noted in its February 21, 2006 First Analog Sunset Report, none of Cingular's network infrastructure vendors support analog equipment, and all have notified Cingular that their analog network infrastructure products are manufacturer discontinued.<sup>49</sup> It would be extraordinarily expensive for Cingular to maintain its analog network for an additional two years. In addition, Cingular would incur the opportunity cost of not being able to use the spectrum required to maintain analog service for other uses.

In addition to the cost and difficulty of maintaining the analog network, the rule is preventing Cingular from achieving spectrum efficiencies that puts Cingular at a competitive disadvantage vis-à-vis carriers who are not subject to the analog requirement. Cingular devotes five percent of its spectrum to less than two percent of its customers utilizing analog-only mobiles and less than one percent of its Minutes of Use (MOUs) are carried by Cingular's analog network, including the MOUs contributed by Cingular's analog/TDMA roaming partners. Freeing up that five percent of Cingular's spectrum will facilitate the roll-out of third generation wireless broadband services. From the perspective of rural customers, Cingular's roll-out of wireless broadband services may provide those customers with their only opportunity for broadband access. Rural customers are less likely than urban customers to have alternate sources of broadband access, and therefore Cingular expects rural demand for higher speeds and transfer rates to be greater than for the typical customer.

Cingular is working aggressively with its analog customers, including its alarm industry customers, to contract for digital services and to facilitate the transition to digital prior to the analog sunset on February 18, 2008. While it will be challenging for

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<sup>49</sup> Cingular Wireless LLC First Analog Sunset Report at 3 (Feb. 21, 2006).

Cingular and its customers, Cingular is confident that a transition to digital can be accomplished by the existing sunset date, and that no extension of the sunset is needed or warranted.

**V. Conclusion.**

The Commission adopted the analog sunset to make sure that certain classes of consumers, specifically the hearing disabled and E911-only mobile telephone users, would have digital alternatives to analog service. Cingular has worked diligently to meet the needs of those customers and is now HAC compliant. At the same time, the Commission rejected pleas by service providers like the alarm industry, who utilize analog cellular to provide service to their customers, to maintain the analog rule. The Commission correctly ruled that such service providers are not covered by the analog sunset rule, and that such providers needed to make the necessary business decisions to serve their customers after the analog sunset. Nothing in the alarm industry's present request to extend the analog sunset would justify the Commission in doing so. The Commission should not initiate a rulemaking to consider extending the analog sunset.

Respectfully submitted,

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F/K/A CINGULAR WIRELESS LLC**

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