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FILED/ACCEPTED
JUL - 5 2007
Federal Communications Commission
Office of the Secretary

July 5, 2007

Via Hand Delivery
Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
c/o Natek, Inc., Inc.
236 Massachusetts Avenue, N.E.
Suite 110
Washington, DC 20002

REDACTED -
FOR PUBLIC INSPECTION

Re: ~~*HIGHLY CONFIDENTIAL INFORMATION SUBJECT TO PROTECTIVE ORDER IN CC DOCKET NO. 96-45*~~
Petition of AT&T Mobility LLC for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia (CC Docket No. 96-45 – DA 07-600)

Dear Ms. Dortch:

Pursuant to the Protective Order in this proceeding,[1] attached please find the confidential original and two redacted copies of AT&T Mobility LLC's Supplemental Reply to Embarq's Supplemental Opposition.

As required by the Protective Order, we are hand-delivering two confidential copies of this letter and filing to Antoinette Stevens in the Wireline Competition Bureau.[2]

[1] *Federal-State Joint Board on Universal Service, Petition of Cingular Wireless LLC for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, Order, DA 07-600, 22 FCC Rcd 2457 (2007).

[2] *Id.* at ¶ 16.

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Please direct any questions regarding this filing to the undersigned.

Sincerely,

WILKINSON BARKER KNAUER, LLP

By: L. Charles Keller

L. Charles Keller

cc: Antoinette Stevens (2 confidential copies by hand)

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Petition of Cingular Wireless LLC for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia	)	
	)	

To: The Commission

SUPPLEMENTAL REPLY OF AT&T MOBILITY LLC

AT&T Mobility LLC ("AT&T"), successor in interest to petitioner Cingular Wireless LLC, hereby responds to the Supplemental Opposition of Embarq Corporation to AT&T's above-captioned petition for designation as an eligible telecommunications carrier ("ETC") in the Commonwealth of Virginia.[1] Embarq is incorrect that AT&T intends to disregard rural areas or engage in "cream skimming" in providing service to customers in its proposed designated service area in Virginia. AT&T's service improvement plan ("SIP") demonstrates that AT&T intends to spend more than the total amount of support available to improve service in each study area, and its petition conforms to the Commission's existing rules and requirements for ETCs.

Embarq states that AT&T's SIP "confirms" the "[t]wo central arguments n Embarq's Opposition" – (1) that the Petition does not demonstrate a commitment to expand and improve service in Embarq's study areas, and (2) the Petition creates substantial concerns about the

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[1] Supplemental Opposition of Embarq Corporation, CC Docket No. 96-45 (filed May 29, 2007) (the "Supplemental Opposition").

commitement to meet the statutory obligation to provide service throughout the requested service area.[2] In fact, the SIP demonstrates a substantial commitment to expand and improve service in Embarq's study areas, and also to serve customers throughout those study areas.

I. AT&T'S ETC PETITION DEMONSTRATES A COMMITMENT TO EXPAND AND IMPROVE SERVICE IN EMBARQ'S VIRGINIA STUDY AREAS

The statute requires that ETCs use federal universal service support only for the "provision, maintenance, and upgrading of facilities" to provide the supported services.[3] In addition, applicants for ETC designation before the Commission are required to submit "a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network on a wire center-by-wire center basis throughout its proposed designated service area," and "demonstrate how signal quality, coverage or capacity will improve due to the receipt of high-cost support."[4] AT&T's SIP meets these requirements.

Embarq in its Supplementation Opposition fails to mention the amount of funds that are available in the United and Central study areas. For the Commission to properly review AT&T's SIP, it must take into account the ETC funds that AT&T will receive in these two study areas. The Commission will then see that AT&T's proposed use of those funds is very reasonable.

As Embarq notes,[5] in its United study area, AT&T proposes to construct [redacted] with a total construction and operating cost over five years of [redacted], which substantially exceeds the support that AT&T expects to receive in this study area over the five-year term of

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[2] Supplemental Opposition at 5.
[3] 47 U.S.C. § 254(e).
[4] 47 C.F.R. § 54.202(a)(1)(ii).
[5] Supplemental Opposition at 7.

the SIP[redacted]). Indeed, the initial construction cost [redacted] undertake in [redacted] contingent on timely approval of its petition, is [redacted], which almost equals the [redacted]tal support that AT&T expects to receive in the study area over the entire five-year term of the SIP, and vastly exceeds the [redacted] that AT&T expects to receive in [redacted], the year [redacted] is projected to be constructed. As the SIP shows, this [redacted] will extend AT&T's service to [redacted] people in the United study area. In addition, the SIP reveals that AT&T plans to spend an additional [redacted] on [redacted] respectively, which will further improve service quality in the United study area and bring AT&T's total five-year investment in the area to [redacted]. This total exceeds the amount of support AT&T will receive by [redacted] or [redacted]%. This represents a specific showing of improvements and upgrades to AT&T's network within the United study area, and thus complies with the Commission's ETC designation rules.

In the Central study area, AT&T proposes to construct [redacted] at a total initial cost of almost [redacted] during the term of the five-year SIP. These [redacted] would extend AT&T's service to [redacted] people. During that time, AT&T also proposes to [redacted] for a total cost of [redacted] and undertake other improvement projects bringing AT&T's total investment in the study area to approximately [redacted]. This roughly equals the approximately [redacted] in support that AT&T expects to receive in the Central study area during the five-year term of the SIP. In addition, AT&T expects to incur approximately [redacted] in expenses for the "provision and maintenance" of the supported

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[6] [redacted]

[7] As Embarq observes, [redacted] Supplemental Opposition at 7.

facilities, bringing AT&T's total additional expenditures in the study area to approximately [redacted] well above the [redacted] in projected support received. This represents a specific showing of improvements and upgrades to AT&T's network within the Central study area, and thus complies with the Commission's ETC designation rules.

Nevertheless, Embarq faults AT&T for not proposing to extend its network into the most rural corners of Embarq's study areas, even though (as the SIP reveals) AT&T expects to receive only about [redacted] per year in the United study area and about [redacted] per year in the Central study area. In light of the amount of support available, AT&T's service extension plans are substantial, and amply comply with the Commission's current requirements.

II. AT&T IS NOT ENGAGING IN CREAM SKIMMING

Embarq states that AT&T intends to engage in "cream skimming" in its study areas[8] Under current rules, the Commission only analyzes the potential for cream skimming where a competitive ETC applicant seeks designation below the full study area level in rural telephone company territory.[9] In analyzing other ETC petitions not involving the redefinition of rural telephone company study areas, the Commission has not engaged in cream skimming analysis.[10] AT&T does not propose to redefine the boundaries of Embarq's – or any other rural telephone company's – study areas in Virginia.

Further, Embarq is mistaken that AT&T's proposals to extend service in Embarq's study areas will not extend coverage beyond existing areas, and that "nothing will change" as a result

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[8] Supplemental Opposition at 8.

[9] 47 C.F.R. § 54.202(c).

[10] *See, e.g., Smith Bagley, Inc., Petition for Designation as an Eligible Telecommunications Carrier for the Navajo Reservation in Utah,* CC Docket No. 96-45, Order, 22 FCC Rcd 2479 (WCB 2007).

of AT&T's investment of universal service support in the areas.[11] Each of the proposed new cell sites in Embarq's study areas will fill in gaps in AT&T's existing coverage in Embarq's study areas.

AT&T's ability to extend service further into rural areas is limited by the total amount of support available. AT&T's SIP represents a reasonable balancing of the needs to extend service to new rural customers and to maximize the impact of strictly limited available support. In state ETC designation proceedings, AT&T has worked with state commissions to adjust service improvement plans in light of the designating regulator's feedback. AT&T is willing to work with the Commission as needed with regard to its Virginia SIP.

During the term of the SIP, AT&T will also be subject to the Commission's rules requiring it to take specific steps to provide service upon reasonable request to customers outside of AT&T's existing coverage area.[12] As a result of these requirements, AT&T will be obligated to make reasonable efforts to serve customers in all portions of Embarq's study areas.

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[11] Supplemental Opposition at 10.
[12] 47 C.F.R. § 54.202(a)(1)(i)(B).

CONCLUSION

AT&T's Petition demonstrates a commitment to use federal high-cost support in a manner consistent with the statute and the Commission's current rules. The Petition should be granted without further delay.

Respectfully submitted,

AT&T MOBILITY LLC, f/k/a CINGULAR WIRELESS LLC

By: *__/s/ M. Robert Sutherland_____*

Paul K. Mancini
Gary L. Phillips
Michael P. Goggin
M. Robert Sutherland
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July 5, 2007

CERTIFICATE OF SERVICE

I, Mark D. Knox, do hereby certify that the foregoing SUPPLEMENTAL REPLY OF AT&T MOBILITY LLC was served on this date on the following:

Jeffrey S. Lanning (via electronic mail)
EMBARQ CORPORATION
401 Ninth Street, NW, Suite 400
Washington, DC 20005
Via electronic mail to Jeffrey.S.Lanning@embarq.com

July 5, 2007

By: /s/
Mark D. Knox