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September 30, 2009

VIA HAND DELIVERY

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Room TW-B204
Washington, DC 20554

Karen Majcher
Vice President, High Cost & Low Income Division
Universal Service Administrative Company
2000 L Street, N.W., Suite 200
Washington, DC 20036

FILED/ACCEPTED

SEP 30 2009

Federal Communications Commission
Office of the Secretary

Re: Federal-State Joint Board on Universal Service
CC Docket No. 96-45

Dear Secretary Dortch:

On behalf of St. Lawrence Seaway Cellular Partnership (SAC 159014 for New York) ("St. Lawrence Seaway"), please find attached a redacted, public version of St. Lawrence Seaway's Annual ETC Report under Section 54.209 of the FCC's Rules ("ETC Report"). The attached ETC Report has been marked "**REDACTED – FOR PUBLIC INSPECTION.**"

St. Lawrence Seaway is also submitting, under separate cover, a confidential version of this ETC Report. The confidential version is marked "**CONFIDENTIAL – NOT FOR PUBLIC INSPECTION.**"

An original and four (4) copies of this ETC Report are enclosed. An additional copy has been provided, which you are requested to date-stamp and return in the envelope provided.

No. of Copies rec'd 0+4
List ABCDE

Marlene H. Dortch
September 30, 2009
Page 2

Please contact the undersigned at 703-584-8671 if any questions arise concerning the above-referenced enclosures or if you require any additional information.

Sincerely,

A handwritten signature in cursive script, appearing to read "David A. LaFuria", written over a horizontal line.

David A. LaFuria
Todd B. Lantor
Steven M. Chernoff

Attorneys for:
New York RSA 2 Cellular Partnership

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20054**

In the Matter of)
)
Federal-State Joint Board on) CC Docket No. 96-45
Universal Service)
)

**ANNUAL ETC REPORT OF
ST. LAWRENCE SEAWAY CELLULAR PARTNERSHIP**

St. Lawrence Seaway Cellular Partnership (“St. Lawrence Seaway” or the “Company”), a wireless service provider designated as an Eligible Telecommunications Company (“ETC”) in the State of New York, hereby provides the Commission with its annual compliance filing containing information as set forth in the Commission’s *Report and Order* in the above-captioned proceeding (“*ETC Report and Order*”).¹

I. REPORTING ITEMS

A. Five-Year Service Quality Improvement Plan.

Pursuant to the *ETC Report and Order*, an ETC must “submit... progress reports on the ETC’s five-year service quality improvement plan, including maps detailing progress towards meeting its plan targets, an explanation of how much universal service support was received and

¹ *Federal-State Joint Board on Universal Service, Report & Order*, 20 FCC Rcd 6371 (2005) (“*ETC Report and Order*”). St. Lawrence Seaway’s designation as an ETC carrier became effective on August 1, 2008. Section 54.209(b) of the Commission’s rules states that “In order for a common carrier designated under section 214(e)(6) to continue to receive support for the following calendar year, or retain its eligible telecommunications carrier designation, it must submit the annual reporting information in paragraph (a)...annually by October 1 of each year.” 47 C.F.R. § 54.209(b). The subject ETC Annual Report is being filed in order for St. Lawrence Seaway to receive support and maintain its ETC designation for calendar year 2010.

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how support was used to improve signal quality, coverage, or capacity; and an explanation regarding any network improvement targets that have not been fulfilled.”²

St. Lawrence Seaway filed its initial its five-year service quality improvement plan as part of its 2008 Annual ETC Report as required by the *ETC Report and Order*,³ and consistent with its ETC designation effective August 1, 2008. The Company's original five-year plan included a listing of the locations of new cell sites and other projected improvements to be built using universal service support for calendar years 2009 to 2013, along with the wire centers and all other information required by 47 C.F.R. § 54.202(a)(1)(ii). Since the original plan did not commence until January 2009, the Company has no information to report through December 31, 2008 for purposes of this Annual Report.

Moreover, St. Lawrence Seaway now expects to receive an estimated \$ [REDACTED] per year in federal high-cost support under the competitive ETC ("CETC") cap currently in effect based on USAC's latest projections. The Company's original five-year plan was developed based on the projected receipt of approximately \$ [REDACTED] of high-cost support each year. While St. Lawrence Seaway will continue to invest all such support in cell site construction, capacity upgrades, and other network improvements to increase access and coverage in rural areas, as well as ongoing operating and maintenance expenses of USF-supported infrastructure, the Company has developed an amended five-year service quality improvement plan and revised operating expenses projections due to the significant reductions in projected USF funding. The

² See *ETC Report and Order*, *supra*, 20 FCC Rcd at 6400.

³ *ETC Report and Order*, n. 191 (carriers that had not previously filed five-year service quality improvement plans were obligated to do so in their first annual report).

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amended five-year plan is attached as Exhibit A,⁴ which includes a listing of the locations of cell sites being built and those that St. Lawrence Seaway proposes to build through 2013, along with the wire centers that are likely to receive increased capacity and coverage and/or improved signal quality as a result of the proposed improvements.⁵ St. Lawrence Seaway also provides as Exhibit B a map showing its coverage in the region and the locations of the proposed new cell sites described in Exhibit A.⁶

As described in Exhibit A, St. Lawrence Seaway's amended five-year service quality improvement plan envisions the expenditure of approximately \$ [REDACTED] on network improvements and associated expenses that it would not undertake otherwise. The proposed expenditures are over and above ordinarily budgeted improvements, and the Company does not expect that it would undertake any of the listed improvements for several years in the absence of high-cost support from the USF. St. Lawrence Seaway believes that every wire center in its ETC service area could benefit from service quality improvements made with high cost support. However, because St. Lawrence Seaway is limited to the per-line support available in the areas it serves – and may not simply submit its USF expenditures for reimbursement – St. Lawrence Seaway will not have sufficient support to undertake all desired improvements in every wire center within the next five years. An explanation of the proposed service quality improvements planned with high cost support is included in Exhibit A.

⁴ This information contained in Exhibit A is proprietary and competitively sensitive; therefore, it is being submitted under seal and is subject to St. Lawrence Seaway's request for confidential treatment.

⁵ The Company's 5-Year Service Improvement Plan begins in 2009 (Year 1) and ends in 2013 (Year 5).

⁶ This information in Exhibit B is proprietary and competitively sensitive; therefore, it is being submitted under seal and is subject to St. Lawrence Seaway's request for confidential treatment.

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The selection of these projects set forth in Exhibit A is based on St. Lawrence Seaway's evaluation of many factors, including current consumer demand, competitive forces and estimated amounts of universal service support. These and other external factors are not within the St. Lawrence Seaway's control and are subject to change. Such changes may affect the St. Lawrence Seaway's assumptions and calculations of where network facilities could be improved to provide better coverage and service and where current and projected consumer demand may require increased capacity. As these externally-driven changes occur, St. Lawrence Seaway will reevaluate and modify its estimates for implementing these projects accordingly. The order in which St. Lawrence Seaway's proposed projects will be undertaken has not been finally determined and may be revised over time. As a result, the content and timing of the projects in Exhibit A is subject to change. Nonetheless, the amended network improvement plan described in Exhibit A demonstrates St. Lawrence Seaway's commitment to use federal high-cost support to make measurable improvements in coverage and capacity for consumers throughout its ETC service area, and to update the Commission on its progress every year prior to being recertified.

B. Outage Reporting.

Under the annual reporting rules adopted in the *ETC Report and Order*, an ETC must report any outages of at least 30 minutes in duration on the facilities it owns, operates, leases, or otherwise utilizes that potentially affect at least ten percent of the end users served in its

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designated service area.⁷ St. Lawrence Seaway has attached an Outage Report (Exhibit C) that includes all reportable outages taking place between July 1, 2008 and December 31, 2008.⁸

C. Service Requests.

The FCC's annual ETC reporting rules require carriers to report the "number of requests for service from potential customers within the eligible telecommunications carrier's service areas that were unfulfilled during the past year" and to describe the steps taken to attempt to provide service.⁹

St. Lawrence Seaway hereby certifies that it follows the six-step process for provisioning service to requesting customers set forth in the FCC's rules. The Company has implemented the necessary tracking systems and employee training procedures to ensure that the six-step process is followed as set forth in the FCC's rules. Specifically, in response to requests for service at a residence or business, St. Lawrence Seaway takes the following steps:

1. If a request comes from a customer within its existing network, St. Lawrence Seaway provides service immediately using its standard customer equipment.

2. If a request comes from a customer residing in any area where St. Lawrence Seaway does not provide service, St. Lawrence Seaway follows a series of steps to provide service.

* First, it determines whether the customer's equipment can be modified or replaced to provide acceptable service.

⁷ 47 C.F.R. § 54.209(a)(2).

⁸ This information in Exhibit C is proprietary and competitively sensitive; therefore, it is being submitted under seal and is subject to St. Lawrence Seaway's request for confidential treatment.

⁹ 47 C.F.R. § 54.209(a)(3).

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* Second, it determines whether a roof-mounted antenna or other network equipment can be deployed at the premises to provide service.

* Third, it determines whether adjustments at the nearest cell site can be made to provide service.

* Fourth, it determines whether there are any other adjustments to network or customer facilities which can be made to provide service.

* Fifth, it explores the possibility of offering the resold service of carriers that have facilities available to that location.

* Sixth, St. Lawrence Seaway determines whether an additional cell site, a cell-extender, or repeater can be employed or can be constructed to provide service, and evaluates the costs and benefits of using scarce high-cost support to serve the number of customers requesting service. If there is no possibility of providing service short of these measures, St. Lawrence Seaway notifies the customer and the Commission of how many requests for service could not be filled in its next annual certification report. The Commission retains authority to resolve any customer complaints that St. Lawrence Seaway has refused to respond to a reasonable request for service.

Between July 1, 2008 and December 31, 2008, St. Lawrence Seaway [REDACTED] unfulfilled requests for service from customers within the designated area.

D. Consumer Complaints.

Between July 1, 2008 and December 31, 2008, St. Lawrence Seaway received [REDACTED] consumer complaints.

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E. Commitment to CTIA’s Consumer Code for Wireless Services.

In the *ETC Report and Order*, the FCC reiterated that carriers must commit to abide by the CTIA Code.¹⁰ St. Lawrence Seaway is officially listed by the CTIA as having fully implemented and adopted the CTIA Code.¹¹ In submitting this report, St. Lawrence Seaway certifies that it will continue to abide by the CTIA Code, as it may be amended from time to time, for all of its operations in New York.

F. Ability to Remain Functional in Emergencies.

Under the rules adopted in the *ETC Report and Order*, an ETC applicant must:

demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.¹²

Once designated, an ETC must certify annually to its emergency functionality.¹³

St. Lawrence Seaway is mindful of the importance of ensuring uninterrupted service so that law enforcement and public safety officials, as well as the general public, can make important calls in the event of a hurricane or other emergency. St. Lawrence Seaway hereby

¹⁰ Under the CTIA Consumer Code, wireless carriers agree to: (1) disclose rates and terms of service to customers; (2) make available maps showing where service is generally available; (3) provide contract terms to customers and confirm changes in service; (4) allow a trial period for new service; (5) provide specific disclosures in advertising; (6) separately identify carrier charges from taxes on billing statements; (7) provide customers the right to terminate service for changes to contract terms; (8) provide ready access to customer service; (9) promptly respond to consumer inquiries and complaints received from government agencies; and (10) abide by policies for protection of consumer privacy. The CTIA Code can be viewed on the Web at http://www.wow-com.com/pdf/The_Code.pdf.

¹¹ The list is on CTIA’s web site at http://www.ctia.org/wireless_consumers/consumer_code/index.cfm.

¹² *ETC Report and Order*, *supra*, 20 FCC Rcd at 6382; 47 C.F.R. § 54.202(a)(2).

¹³ *ETC Report and Order*, *supra*, 20 FCC Rcd at 6401; 47 C.F.R. § 54.209(a)(6).

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certifies that the company is capable of functioning in emergency situations as set forth in section 54.202(a)(2).

G. Local Usage.

In the *ETC Report and Order*, the Commission concluded that each ETC must annually certify that it offers at least one local usage plan comparable to the one offered by the incumbent LEC in the service areas for which the applicant seeks designation.¹⁴ In the *ETC Report and Order* on which that requirement was based, the FCC declined to adopt a specific local usage threshold or require that an applicant match the incumbent's offering. Rather, the FCC concluded that the comparability of rate plans should be evaluated on a case-by-case basis, in consideration of the number of included minutes, the size of the "local" calling area, monthly price, and other factors. As examples, the FCC mentioned that an applicant may offer "a local calling plan that has a different calling area than the local exchange area provided by the LECs in the same region, or . . . a specified number of free minutes of service within the local service area."¹⁵ The FCC also envisioned cases where an applicant may offer an unlimited calling plan that bundles local minutes with long distance minutes.¹⁶

St. Lawrence Seaway satisfies the FCC's local usage requirement in that consumers may choose from a variety of plans with different combinations of minutes (with one plan offering unlimited minutes), and monthly rates, to suit individual consumer needs. With the ability to choose rate plans that meet their calling patterns and preferences, St. Lawrence Seaway's

¹⁴ See *ETC Report and Order, supra*, 20 FCC Rcd at 6385; 47 C.F.R. § 54.209(a)(7).

¹⁵ See *ETC Report and Order, supra*, 20 FCC Rcd at 6385.

¹⁶ *Id.*

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customers have the ability to select at least one rate plan that offers comparable or better value than the rate plans of the ILECs in the same areas.

St. Lawrence Seaway's rate plans offer comparable or better value to consumers than those offered by the ILECs in its proposed ETC service area. For example, St. Lawrence Seaway's Nationwide 450 Plan offers 450 minutes of calling that allow customers to make calls or travel beyond any local calling area without incurring toll or roaming charges. The plan is available for a monthly price of \$33.99. In addition, St. Lawrence Seaway's Nationwide 900 Plan offers 900 nationwide minutes for a monthly price of \$59.99.

The rate plans described above demonstrate that St. Lawrence Seaway's service offerings allow consumers to select a plan that provides them with equal or greater value than a wireline rate plan. The service area associated with the rate plans are much larger than rural ILEC local calling areas, which typically allow a consumer to reach only a few hundred or a few thousand people within an area made up of a handful of exchanges. Consumers that travel more or make many calls to relatives or business associates will benefit from the above plans. Providing deeper geographic reach delivers a significant benefit to the consumer, and the FCC has cited studies concluding that "wireless service is cheaper than wireline, particularly if one is making a long distance call or when traveling."¹⁷

In sum, St. Lawrence Seaway certifies that it offers at least one plan that is comparable to ILEC rate plans under the applicable FCC test.

¹⁷ Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report & Analysis of Competitive Market Conditions with Respect to Commercial Mobile Servs., *Ninth Report*, 19 FCC Rcd. 20597, 20684, para. 214 (2004).

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H. Equal Access.

As required of ETCs designated by the FCC under the *ETC Report and Order*,¹⁸ St. Lawrence Seaway acknowledges that the FCC may require it to provide equal access to interexchange carriers in the event no other ETC is providing equal access in the designated ETC service area.

We trust that you will find this to be responsive to the compliance materials requested in the *ETC Report and Order* and St. Lawrence Seaway's ETC designation order.

Respectfully submitted,



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Attorneys for:
St. Lawrence Seaway Cellular Partnership

Dated: September 30, 2009

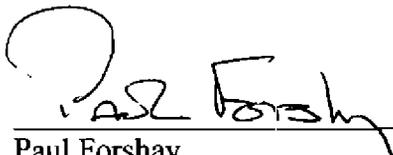
¹⁸ See *ETC Report and Order, supra*, 20 FCC Rcd at 6386.

DECLARATION UNDER PENALTY OF PERJURY

I, Paul Forshay, do hereby declare under penalty of perjury as follows:

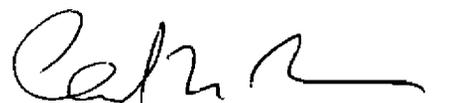
1. I am the Chairman of St. Lawrence Seaway Cellular Partnership.
2. This Affidavit is submitted in support of St. Lawrence Seaway Cellular Partnership's Annual Compliance Filing and Request for Recertification, pursuant to *Report and Order In the Matter of the Federal-State Joint Board on Universal Service*, FCC 05-46 (rel. March 17, 2005) and Sections 54.202 and 54.209 of the FCC's Rules.
3. I declare under penalty of perjury that the statements contained in the foregoing Annual Compliance Filing are true and correct to the best of my knowledge, information and belief.

Executed on September 22, 2009



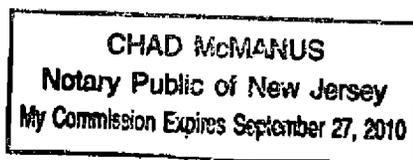
Paul Forshay
Chairman
St. Lawrence Seaway Cellular Partnership

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me this 22nd day of September, 2009.



NOTARY PUBLIC

My Commission Expires: September 27, 2010



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Exhibit A

Five-Year Service Quality Improvement Plan

**THIS EXHIBIT IS WITHHELD AS THE FILER
HAS REQUESTED CONFIDENTIAL TREATMENT**

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Exhibit B

Coverage Map and Locations of Proposed New Cell Sites

**THIS EXHIBIT IS WITHHELD AS THE FILER
HAS REQUESTED CONFIDENTIAL TREATMENT**

REDACTED – FOR PUBLIC INSPECTION

Exhibit C

Outage Report

**THIS EXHIBIT IS WITHHELD AS THE FILER
HAS REQUESTED CONFIDENTIAL TREATMENT**