

**BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI**

Application of USCOC of Greater Missouri, LLC for)
Designation as an Eligible Telecommunications Carrier)
Pursuant to the Telecommunications Act of 1996)

Case No. TO-2005-0384

**U.S. CELLULAR’S RESPONSE TO AT&T’S MOTION TO RECLASSIFY
CERTAIN CONFIDENTIALLY MARKED INFORMATION**¹

1. Notwithstanding the ability of AT&T’s legal counsel and outside experts to review materials marked Highly Confidential, AT&T now wants U.S. Cellular to “reclassify” – i.e., designate as public or proprietary – all but one of its Highly Confidential appendices to its two-year network improvement plan submitted on August 11, 2006.

2. AT&T’s efforts to declassify or lessen the confidential protections of U.S. Cellular’s two-year plan are inconsistent with recent arguments made by a wireless entity it controls. Specifically, Cingular Wireless, of which AT&T owns a 60% share, has sought confidential treatment of similar materials submitted in connection with its petition for ETC status currently pending before the Federal Communications Commission.² In seeking confidential treatment of its network improvement plan, Cingular argued that:

The information being submitted is commercially and financially sensitive and is privileged. [. . .] The release of such information will cause substantial competitive harm to Cingular. Disclosure of Cingular’s five-year plans for its expenditures of universal service funds would give Cingular’s competitors access to privileged information that would affect the actions of those competitors. Competitors seeking to compete with Cingular could upgrade their

¹ AT&T combined its reclassification motion with its Response to U.S. Cellular’s Compliance Filing. U.S. Cellular will file a separate pleading at a later date which addresses AT&T’s Response to U.S. Cellular’s Compliance Filing.

² Cingular Wireless LLC, Amendment to the Petition of AT&T Wireless Services, Inc., for Designation as an Eligible Telecommunications Carrier in the State of Alabama (filed Feb. 23, 2006) (“Cingular Amendment”).

networks in an attempt to, for example, preempt Cingular's planned upgrades. Also, by providing information about where Cingular intends to expand coverage, Cingular could expose itself to predatory practices by tower owners and potential tower site owners in areas where it has committed to add cell sites.³

Cingular further argued that its network improvement plans should be kept confidential for a minimum of ten years, arguing that "[e]ven after the five-year term of the plan expires, Cingular would not reveal to its competitors the amount of money it has spent in the past in certain wire centers."⁴ AT&T offers no basis for treating U.S. Cellular's network improvement plan with lesser confidentiality than that requested by Cingular.

3. U.S. Cellular agrees with Cingular and believes that the same reasoning should hold equally in the instant case. U.S. Cellular does not make its network improvement plans available to the public, nor does it make public the expenditures associated with network improvements, whether planned or completed. The attachments and portions of the text all include specific dollar amounts unavailable to the public, as well as location information for the company's network facilities and the capabilities of these facilities. Moreover, one may deduce from this information the location of U.S. Cellular's customers and the focus of its marketing efforts in Missouri. Disclosure of these materials would reveal confidential details pertaining to U.S. Cellular's network infrastructure, customer base, marketing strategies and the company's competitive position in the Missouri telecommunications marketplace. Because this information goes to the heart of the company's business planning and competitive strategy, its public disclosure would be both economically damaging to U.S. Cellular and economically

³ Id. at pp. 1-2.

⁴ Id. at p. 2.

advantageous to its competitors. For these reasons, similar materials have been granted confidential treatment by the FCC and other state commissions.⁵

4. Additionally, AT&T attempts to confuse the issue by stating that U.S. Cellular agrees that much of its two-year plan can be treated as a public document. U.S. Cellular made a specific exception to public classification for all the appendices contained in its two-year plan.⁶ Those appendices contain market-specific information relating to services offered in competition with others, including AT&T.

5. Appendix 1 contains many more proposed sites than Appendix E filed in U.S. Cellular's ETC application. For this reason, U.S. Cellular seeks to keep the information contained in Appendix 1 confidential.

6. Appendix 2 contains cell site names and the exchanges associated with those cell sites. This information was not contained in Exhibits C and D to U.S. Cellular's ETC application. For this reason, U.S. Cellular seeks to keep the information contained in Appendix 2 confidential.

7. Appendices 4 and 5 are not the same as Hearing Exhibits 1 and 2. U.S. Cellular has significantly expanded the number of cell sites that it proposes to build after it receives ETC certification, and its plans extend farther into the future. Thus, Appendixes 4 and 5 contain additional information not found in Hearing Exhibits 1 and 2. U.S. Cellular's accommodation to

⁵ See, e.g., Federal-State Joint Board on Universal Service, Sprint Corp., 19 FCC Rcd 22663, 22667, n.28 (2004) (granting confidential treatment to "lists of new and upgraded cell sites, with accompanying cost data" submitted in support of wireless carrier's ETC application); RCC Minnesota, Inc, Docket No. 04-RCCT-338-ETC, Order Granting Motion to File Under Seal (Kansas Corp. Comm'n, Jan. 22, 2006) (granting confidential status to ETC compliance report, including coverage map and cell site listing); RCC Atlantic Inc., Docket No. 6934, Protective Order (Vermont PSC, Jan. 9, 2003) (establishing protective order applied to list of projected network improvements and associated maps of existing and projected future wireless coverage).

⁶ U.S. Cellular's Notice, August 17, 2006, p. 1.

AT&T at the hearing did not waive its right to protect competitive sensitive information developed after the hearing.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been mailed electronically to all counsel of record this 6th day of September, 2006.

/s/ Karl Zobrist

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