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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Overpayment of New Cingular Wireless PCS, LLC Into the Utah Universal Service Support Fund	Docket No. 24-087-02
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DIRECT TESTIMONY

OF

JANNET TOLLEY

On Behalf of

New Cingular Wireless PCS, LLC

May 24, 2024

1 **Q: Please state your name, your position with AT&T and your business address.**

2 A: My full name is Janet A. Tolley. I am employed by AT&T as Director – Tax. My business
3 address is: 1405 US Highway 206, Bedminster, NJ 07921.

4 **Q. On whose behalf do you offer testimony in this proceeding?**

5 A. My testimony is submitted on behalf of New Cingular Wireless PSC, LLC (“Company”).

6 **Q: Please describe your educational background and your professional experience prior**
7 **to coming to work for AT&T.**

8 A: I received a bachelor’s degree in accounting from Virginia Tech in 1987. I passed the CPA
9 exam that year and became a licensed CPA in Virginia. I transferred my CPA license to
10 New Jersey in 1996. I received an MBA from Rutgers University in New Jersey in 1998.
11 Prior to my work at AT&T, I worked for three years at a consulting company as a senior
12 consultant specializing in government and financial sector projects.

13 **Q: Please describe your work experience.**

14 A: I have been employed by AT&T since 1991. I’ve worked in various financial roles since
15 joining AT&T and moved into the Finance Department’s tax organization in 2009. Since
16 joining the tax organization, I have worked primarily in billing but have some experience
17 in revenue-based filings and working compliance datafile issues and enhancement
18 requests.

19 **Q: Please describe your current duties and responsibilities with AT&T as Director--Tax.**

20 A: I am currently in charge of a team that is responsible for ensuring that AT&T’s billing
21 systems are updated with the correct tax and surcharge rates. We work closely with the IT

22 and tax research and planning teams to ensure that product taxability, journalization, and
23 exemption functionality are set up correctly in our systems.

24 **Q: Have you testified previously in federal or state regulatory proceedings on**
25 **telecommunications issues?**

26 A: No.

27 **Q: What is the purpose of your testimony?**

28 A: My testimony, combined with the Company's Verified Request for Overpayment to UUSF
29 filed with the Commission on April 20, 2024 (the "Request") and the direct testimony of
30 my colleague, Randy Phoenix, supports Company's request for recovery of excess
31 surcharge remittances, or overpayments, to the Utah Universal Public Telecommunications
32 Service Support Fund ("UUSF") from July 2021 to June 2023 in the total amount of
33 \$2,263,407.04. The facts stated in this testimony are true of my own personal knowledge.

34 **Q: Do you verify that the statements and facts made in the Request and exhibit attached**
35 **to the Request?**

36 A: I further verify and confirm the statements and assertions made in the Company's Request
37 and Exhibit A attached to the Request.

38 **Q: Describe the Company's business?**

39 A: The Company is a wholly owned affiliate of AT&T Inc. Company provides wireless
40 telephone services to customers in Utah and other states.

41 **Q: Describe the Company's responsibility for remittances to the UUSF?**

42 A: The Company remits each month to the Commission, as the administrator of the UUSF, a
43 Commission-set surcharge for post-paid wireless access lines that have a primary place of

44 use (or PPU) in Utah. Prior to July 2021, the Commission-set UUSF surcharge rate was
45 \$0.54 per access line per month. The Company passed through this UUSF surcharge to its
46 customers as a line-item on monthly invoices under “Company fees & surcharges.” In
47 June 2021, the Commission reduced the UUSF surcharge rate from \$0.54 to \$0.36 per
48 access line, which was to be effective starting July 2021.

49 **Q. When the Commission changed the UUSF surcharge rate, what steps did the**
50 **Company take to effectuate the change?**

51 A. The Company utilizes a legislative and regulatory compliance system known as the
52 Legislative Tracking, Reporting and Compliance (“LTRAC”) portal. When state utility
53 commissions implement changes that affect rates and charges to customers, AT&T’s
54 regulatory team enters information reflecting the change into LTRAC. LTRAC’s
55 notification process then notifies the impacted AT&T business units of the change in law,
56 regulation, or other mandate. When the Commission enacted the change to the UUSF
57 surcharge to become effective July 2021, AT&T’s regulatory team entered that information
58 into LTRAC and LTRAC then notified the Company and other AT&T business units
59 operating in Utah of the change. I received notification from LTRAC on or about June 28,
60 2021, that the Commission issued its notice decreasing the UUSF surcharge from \$0.54 to
61 \$0.36 per access line effective July 1, 2021. I communicated the change to the tax rate
62 update team reporting to me to update the UUSF rate in the applicable billing systems.

63 **Q: Did the tax rate update team properly effectuate this July 2021 change to the UUSF**
64 **surcharge?**

65 A. The update team properly effectuated the UUSF surcharge rate change from \$0.54 to \$0.36
66 effective July 2021 for other AT&T affiliate companies who provide telecommunications
67 services to customers in Utah subject to UUSF remittance requirements. Company,
68 however, does not utilize the same billing system as the other AT&T affiliate companies.
69 The update team did not properly effectuate the UUSF rate change for Company.

70 **Q: Why was the Company's billing system not properly updated with the new UUSF**
71 **surcharge rate for July 2021?**

72 A. Telegence is the primary billing system used for mobility and wireless services in Utah.
73 State and local taxes, which include state USF surcharges, are identified in the billing
74 system by a unique two-digit code referred to as a "taxtype." "Taxtype 36" is utilized for
75 states where the state USF surcharge is based on the provider's intrastate
76 telecommunications revenues. "Taxtype 40" is utilized for states where the state USF
77 surcharge is based on a "per access line" surcharge. The UUSF funding mechanism in Utah
78 was based on a provider's intrastate telecommunications revenue (taxtype 36) until 2017.
79 In 2017, Utah changed the UUSF surcharge to a per access line surcharge (taxtype 40).¹
80 As such, the active taxtype for the Utah UUSF surcharge is taxtype 40 and taxtype 36 is an
81 obsolete taxtype for Utah. AT&T provides services in numerous jurisdictions in which the

¹ See *In the Matter of the Utah Administrative Code R746-360 Utah Universal Public Telecommunications Service Support Fund*, Docket No. 17-R360-01.

82 state USF funding mechanism is based on the provider's telecommunications systems and
83 taxtype 36 is an active taxtype in those jurisdictions.

84 Each month, the rate update team, which is tasked with updating AT&T's billing
85 systems with the correct tax/surcharge rates in the jurisdictions in which AT&T entities
86 operate, prepares a worksheet of state and local taxes and surcharges to be updated in that
87 month. The rate update team then submits that updated worksheet to an IT team for data
88 entry into the billing system. In the June 2021 worksheet, the rate update team entered the
89 UUSF surcharge rate change as \$0.36 in the worksheet provided to the IT team for data
90 entry. The rate update team, however, inadvertently updated the worksheet by entering the
91 updated rate in a column for taxtype 36 rather than in the column for active taxtype 40 for
92 the Utah per access line surcharge to be effective July 1, 2021. The IT team then executed
93 that change in the billing system, meaning that it updated the billing system using the \$0.36
94 surcharge, but only in the incorrect taxtype 36 and not in active taxtype 40. The result was
95 that the correct UUSF rate was not implemented on customer bills because the updated
96 UUSF surcharge was not updated in active taxtype 40.

97 The IT data entry process generates a monthly summary report for all state and local
98 tax and surcharge rate changes updated to the billing system. That summary report is then
99 provided to the rate update team, which reviews and validates the report for compliance.
100 In this instance, however, the summary report provided to the rate update team included
101 only the updated active taxtypes used for billing in the current month. Since the taxtype
102 entered for the UUSF surcharge was not active for Utah, the rate change did not appear on
103 the report.

104 For July 2021, there were 395 rate updates on the report generated for review. Since
105 the UUSF surcharge rate change was not on the July 2021 summary report, the error was
106 not caught during the rate update team review and compliance process.

107 **Q: What was the result of this inadvertent action?**

108 A: Because the incorrect taxtype was updated in the billing system for the UUSF surcharge
109 rate change, the Company's biller did not implement the \$0.36 rate and continued to assess
110 the UUSF surcharge at the \$0.54 rate in effect prior to July 2021. As a result, Company
111 customers were invoiced \$0.18 per access line per month more than the Commission-set
112 rate in effect as of July 2021. Company became aware of this issue in late July 2023 and
113 promptly corrected the issue in its billing system by updating the correct taxtype.

114 As discussed in the direct testimony of my colleague, Randy Phoenix, the Company
115 remitted the correct amount to the UUSF for July 2023 based on the \$0.36 surcharge rate.
116 The Company learned of the error after customers were billed that month, however, so the
117 change to customer bills was implemented in its bills for August 2023.

118 **Q: How was the UUSF remittal process impacted?**

119 A: The remittal process was affected in two ways. First, because the Company invoiced
120 customers \$0.54 per access line for the months at issue and remitted amounts collected
121 from customers for this surcharge (less the Commission-approved administration fee), the
122 Company collected and remitted more than the explicit charge set by the Commission.

123 Second, the Company's use of the wrong UUSF surcharge in customer invoices led
124 the Company to report the wrong number of access lines in its UUSF remittance reports to
125 the Commission. The tax team responsible for UUSF remittance completes the

126 Commission's UUSF surcharge remittal statement each month. Using billing data, the
127 Company reports the "amount collected" in the applicable line on the form and then
128 calculates the associated number of access lines for that reporting period by dividing the
129 amount collected by the applicable UUSF surcharge rate. Because the Company invoiced
130 customers \$0.54 per access line for the months July 2021 through June 2023, but divided
131 the amount collected from customers by the Commission-set \$0.36 rate populated in the
132 remittal statement, the Company overstated the number of access lines in these remittal
133 statements.

134 **Q: What was the resulting total excess contribution, or overpayment, to the UUSF?**

135 A. The resulting total overpayment to the UUSF was \$2,263,407.04, which represents the
136 difference between the rate that should have been collected and remitted (\$0.36 per access
137 line) versus the rate that was actually collected and remitted (\$0.54 per access line) for this
138 time period between July 2021 through June 2023. Confidential Exhibit A to the
139 Company's Request identifies for each of these months the reported amount collected at
140 the incorrect \$0.54 rate, the amount that should have been collected at the Commission-set
141 \$0.36 rate, and the adjustment requested for each month. My colleague Randy Phoenix, in
142 his direct testimony, further explains and verifies the calculation of the total excess UUSF
143 contributions.

144 **Q: Were credits issued to impacted customers?**

145 A: Yes. The Company became aware in late July 2023 that customers had been charged a
146 UUSF surcharge in excess of the Commission-set rate. We promptly acted to issue credits
147 to impacted Utah customers for the UUSF surcharge billed in excess of the then-applicable

148 rate. To do so, we identified customers in the billing system by geocode (the Utah state
149 identifier) and taxtype (state universal service charge) and then calculated the amount
150 billed in excess of the Commission-set rate from July 1, 2021, through July 2023. Impacted
151 Utah customers were issued a credit of \$0.18 per access line for each month billed in excess
152 of the Commission-set rate. The credit amount was the difference between the billed
153 amount of \$0.54 per access line per month and the \$0.36 rate that should have been billed
154 per access line. Credits appeared on customer invoices beginning in September 2023.

155 **Q: What was the total amount of credits issued to impacted customers?**

156 A: The Company issued credits to impacted customers in the total amount of \$2,369,273.40.
157 My colleague Randy Phoenix, in his direct testimony, further explains and verifies the
158 calculation of the number of credits issued.

159 **Q: Did the Company financially benefit from this matter?**

160 A: No, the excess collection and remittances were the result of an inadvertent administrative
161 error. The Company did not benefit from the error as the excess collections for July 2021
162 through June 2023 were not retained but were remitted to the UUSF each month. The
163 Company's customers were not damaged because Company promptly credited to their
164 accounts an amount equal to the excess contribution for the months of July 2021 through
165 July 2023. In fact, Company is negatively impacted by the error because it is "out-of-
166 pocket" the total amount of excess contributions since it issued customer refunds last fall.

167 **Q: What steps has the Company taken to prevent this issue from happening again?**

168 A. The Company recognizes the importance of accurately assessing and remitting the UUSF
169 surcharge. Company has implemented a tool that compares all monthly tax rate updates

170 across all billers AND compares to the source documents that contain the rates to be
171 updated from our third-party vendor Vertex. This new automated comparison tool will not
172 rely on an analyst's manual review process. Instead, the resulting "Consolidated Rate
173 Updates by Biller" spreadsheet will clearly display any discrepancies and/or missing rate
174 updates.

175 **Q: What is your recommendation to the Commission in this proceeding?**

176 A: Based on the testimony and evidence in this proceeding, I recommend and request that the
177 Commission grant the Company a refund for the excess UUSF surcharge payments
178 remitted to the UUSF from July 2021 through June 2023 in the total amount of
179 \$2,263,407.04. My testimony and the evidence in this proceeding demonstrates good cause
180 to allow this recovery and that recovery is consistent with the public interest.

181 **Q: Does this conclude your pre-filed direct testimony?**

182 A: Yes.