

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  AT&T WIRELESS, n/k/a NEW CINGULAR WIRELESS PCS, LLC	DOCKET NO. FCU-06-3
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**ORDER SCHEDULING SHOW CAUSE HEARING**

(Issued August 7, 2006)

**PROCEDURAL HISTORY**

On January 18, 2006, the Utilities Board (Board) issued an order opening Docket No. FCU-06-3 and giving notice pursuant to Iowa Code § 476.51 in which the Board directed AT&T Wireless, n/k/a New Cingular Wireless PCS, LLC (New Cingular Wireless), to submit to the Board certain information required by Iowa Code § 477C.7. The Board also stated that failure to comply with the Board's order could result in a civil penalty action, and if New Cingular Wireless disagreed with the order, it should file prefiled testimony and exhibits on or before January 25, 2006.

In the order the Board directed New Cingular Wireless to (1) file an initial report with the Board providing company contact information and specific line count information as of May 31, 2005, (2) file a report by January 31, 2006, of the numbers in service for the months of July, August, and September 2005, and (3) submit to the Board an assessment payment equal to 3 cents per month per number providing service in Iowa with the report of the numbers in service.

On January 25, 2006, New Cingular Wireless filed a response to the Board's January 18, 2006, order. In the response, New Cingular Wireless stated that it operates in Iowa subsequent to its acquisition of AT&T Wireless and AT&T Wireless had previously acquired TeleCorp PCS. Prior to that acquisition, AT&T Wireless operated in that portion of Iowa in the Omaha area, while TeleCorp PCS operated in the rest of Iowa.

New Cingular Wireless stated that it had filed two reports in October 2005, one under New Cingular Wireless PCS and another under TeleCorp PCS, and filed checks for assessments under those company names. New Cingular Wireless stated that it cannot confirm filing the preliminary report in June 2005, but believes that any inconvenience should be moot since it filed the October 2005 reports.

New Cingular Wireless argued that having filed the October 2005 report and with the filing of the report and payment in January 2006, all of the issues raised in the Board's January 18, 2006, order have been satisfied. New Cingular Wireless then said that if other issues were identified with enough specificity, it would investigate and provide the additional information. New Cingular Wireless requested the Board close Docket No. FCU-06-3.

The Board has reviewed the October reports filed by New Cingular Wireless and TeleCorp PCS. Those reports revealed large variances in the number of lines reported from month to month and these variances have continued in subsequent reports. Board staff has attempted to contact New Cingular Wireless to informally obtain additional information about the variances without the necessity of additional Board orders.

On March 7, 2006, Board staff attempted to call the contact telephone number listed on the October 2005 reports, leaving a voicemail message. Additionally, on March 7, 2006, Board staff sent a fax to New Cingular Wireless because it did not have an e-mail address available. Board staff received a phone call from a consultant for New Cingular Wireless on March 7, 2006, indicating the fax would be reviewed and the information provided.

Board staff received a telephone call from the consultant for New Cingular Wireless on March 28, 2006, providing a contact name and telephone number of someone at New Cingular Wireless who could provide the information. Board staff was able to reach the contact person via telephone on March 30, 2006, and was told the information would be gathered and provided.

Board staff followed up with additional telephone calls to the New Cingular Wireless contact person on May 8, 2006, and June 5, 2006. The information has still not been provided to Board staff.

Based upon the failure of New Cingular Wireless to provide the information necessary to complete the review of its October and January reports, the Board has determined that it should set this matter for a show cause hearing. In the January 18, 2006, order, the Board directed New Cingular Wireless to provide contact information so it could follow up with any additional questions about the reports. The Board through its staff has repeatedly attempted to communicate with the contact person, but has not received the additional information requested. Since the variances in the October reports have not been explained, the reports are not complete. New Cingular Wireless will be required to appear and show cause why it should not be

subject to civil penalties for failure to provide complete reports, respond to Board staff inquiries, and comply with the Board's January 18, 2006, order.

Iowa Code § 476.51 (2005) states that a public utility which, after written notice by the Board of a specific violation, violates the same provision of an order of the Board, is subject to civil penalties of not less than \$100 or more than \$2,500 per violation. If the utility willfully violates the same provision of a Board order, the civil penalty is not less than \$1,000 or more than \$10,000 per violation. New Cingular Wireless has failed to file reports as required by the Board's January 18, 2006, order. The Board will establish a procedural schedule and hold an evidentiary hearing to consider whether civil penalties should be levied against New Cingular Wireless under the provisions of Iowa Code § 476.51.

**IT IS THEREFORE ORDERED:**

1. New Cingular Wireless PCS, LLC, is directed to appear at the hearing scheduled below and show cause why it should not be subject to civil penalties pursuant to Iowa Code § 476.51.
2. The following procedural schedule is established:
  - a. Petitions to intervene shall be filed on or before August 15, 2006.
  - b. New Cingular Wireless PCS, LLC, shall file prepared direct testimony, along with any underlying workpapers and exhibits, on or before August 25, 2006.
  - c. The Consumer Advocate Division of the Department of Justice and any intervenors may file prepared direct testimony, with the underlying workpapers and exhibits, on or before September 8, 2006.

d. New Cingular Wireless PCS, LLC, may file rebuttal testimony, with underlying workpapers and exhibits, on or before September 15, 2006.

e. A hearing shall be held for the purpose of receiving testimony and the cross-examination of all testimony beginning at 9 a.m. on October 12, 2006. The hearing shall be held in the Board's hearing room at 350 Maple Street, Des Moines, Iowa 50319-0069. Persons with disabilities requiring assistive services or devices to observe or participate should contact the Utilities Board at (515) 281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

f. The parties may file simultaneous briefs on or before October 26, 2006.

**UTILITIES BOARD**

/s/ John R. Norris

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ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Curtis W. Stamp

Dated at Des Moines, Iowa, this 7<sup>th</sup> day of August, 2006.