

**Attachment A**

## Settlement Agreement

This Settlement Agreement (“Settlement”) is made and entered into by and between New Cingular Wireless PCS, LLC and its Wireless Affiliates (“AT&T”) and the Utility Consumers’ Action Network (“UCAN”) (sometimes referred to collectively as the “Parties” or individually as a “Party”). This Settlement is made pursuant to the following terms and conditions:

### RECITALS:

- A. On August 31, 2007, UCAN filed Case No. C-07-08-033 (“the Complaint”) before the California Public Utilities Commission (“Commission”) alleging that certain practices surrounding AT&T’s International Roaming services violated Public Utilities Code §2890(a) and General Order 168.
- B. On October 12, 2007, AT&T responded to the Complaint denying the allegations included therein. On November 20, 2007, AT&T also filed a motion to dismiss the Complaint. The Assigned Law Judge issued a ruling on August 27, 2008, denying AT&T’s Motion.
- C. Despite the respective positions of the Parties, in order to settle fully and finally all disputes at issue in the Complaint and to avoid the costs of further pursuing the claims and defenses before the Commission in the Complaint, the Parties have negotiated a settlement of the disputed claims, which is set forth below.

NOW THEREFORE, in consideration of the foregoing and based upon the mutual promises made by the Parties to each other, the Parties hereby agree as follows:

### DEFINITIONS:

**International Roaming:** Voice calls made and/or received while outside of the United States, Puerto Rico, and U.S. Virgin Islands.

**Near Real Time Roaming Data Exchange (“NRTRDE”):** A GSM Association interoperable data exchange procedure that will replace the current High Usage Report methods previously adopted by the GSM Association.

**Usage Notification:** System whereby the customer may request to be notified after a certain threshold of International Roaming usage is reached based on the records AT&T receives via NRTRDE.

**Wireless Affiliates:** AT&T commercial mobile radio service (“CMRS”) operating entities in California that are registered with the Commission, in addition to New Cingular Wireless PCS, LLC. By way of example, at the time of this Settlement the Wireless Affiliates of New Cingular Wireless PCS, LLC (U-3060-C) are Cagal Cellular Communications Corporation (U-3021-C), Santa Barbara Cellular Systems, Ltd. (U-3015-C), and Visalia Cellular Telephone Company (U-3014-C).

AGREEMENT:

**1. Notification to Existing Customers of the Ability to Opt-Out of International Roaming**

- a. Within 90 days of the date the Settlement is approved by the Commission, AT&T will notify current California non-business customers with pay-per-use International Roaming that International Roaming is included with their service and the procedure for removing and/or blocking International Roaming, if desired. The notice will also instruct customers how they may obtain additional information on International Roaming.
- b. The additional information referenced in 1.a., above, will include, but is not limited to, the following, to the extent that it remains relevant: 1) inform customers that they may be charged for incoming phone calls that go directly to voicemail when the phone is turned on in a foreign country; 2) provide an international customer service number that may be dialed free of charge from the customer's AT&T wireless phone from anywhere in the world that the customer's AT&T wireless phone can make calls; and, 3) provide specific rates per country for International Roaming. AT&T will maintain and make accessible a webpage that includes, at a minimum, the information detailed in 1.a. and 1.b.
- c. The notification in 1.a. shall be a separate mailing (postcard or letter).
- d. The notification in 1.a. shall be in at least six bill messages within a 12 month period, subject to bill notice character limitations.
- e. Within 90 days of the date the Settlement is approved by the Commission, AT&T will prominently display an alert referencing the information contained in 1.a. on the Web landing page/screen for customer online account management. This initial alert will be in effect for a minimum of 90 days. The alert will contain a direct link to more detailed information on International Roaming, including, at a minimum, that described in 8a.
- f. Following the initial alert in 1.e., AT&T will display the alert every six months with each alert lasting for a 30-day period. In the alternative, AT&T may provide a one-time notification that appears on the Web landing page/screen for customer online account management with the information contained in 1.a. that the California non-business customer must take an affirmative action to remove from the screen. AT&T will in its sole discretion determine which alternative to employ. The alert will contain a direct link to more detailed information on International Roaming, including, at a minimum, that described in 8a.

## **2. Notification to Future Customers of the Ability to Opt-Out of International Roaming**

- a. Within 90 days of the date this Settlement is approved by the Commission, AT&T shall provide information to California non-business customers at service activation that International Roaming is a service included in their rate plan, if applicable. AT&T will also instruct California non-business customers at service activation where to obtain additional information about International Roaming, including how to block International Roaming.
- b. See 1.f. above.

## **3. Blocking of International Roaming**

- a. AT&T will determine the process for allowing California customers to block International Roaming, but at a minimum it will allow the customer to contact an AT&T representative at a designated phone number that may be dialed free of charge from the customer's AT&T wireless phone.
- b. Within one year from the date this Settlement is approved by the Commission, AT&T will allow its California customers to block International Roaming from his/her online account management page.
- c. When a California customer requests to have International Roaming blocked, AT&T will indicate on the customer's bill that International Roaming has been blocked, subject to character limitations.

## **4. Customer Usage Notification**

- a. AT&T will make available to California customers the Usage Notification no later than twelve months following AT&T's receipt of International Roaming usage via NRTRDE from all carriers that AT&T has then existing roaming agreements in, at least, 17 of the top 20 countries with which AT&T's customers have the highest International Roaming usage based on minutes of use ("MOU").
- b. AT&T will in its sole discretion decide whether to provide customers with the ability to set a threshold for the Usage Notification based on a dollar amount or MOUs. In the event AT&T chooses a threshold based on MOUs, AT&T will make available to the customer when setting the threshold the ability to view the International Roaming rate(s) by country and will allow the customer to pick a country and determine the dollar amount for a certain Usage Notification threshold through an online calculator. AT&T will, at a minimum, provide customers with five threshold options from which to choose, with a minimum threshold option of \$300 or 100 MOUs. AT&T will make the Usage Notification available to each eligible individual phone on a multiple phone plan (i.e. a family plan).

- c. When AT&T determines that the threshold set for the Usage Notification is reached based on the records AT&T receives via NRTRDE, AT&T will send the customer an SMS message to the affected phone. AT&T will also send a notification to an email address, if requested by the customer.
- d. AT&T will send an email confirmation to the email address on file when the customer initially sets up the Usage Notification. The confirmation will also instruct the customer how they may obtain additional information on International Roaming. AT&T will provide the customer with the ability to login to view and/or modify the Usage Notification threshold online.

## **5. Notification of Availability of Usage Notification**

- a. Within 30 days of the date that the Usage Notification is made available, AT&T will inform all current California non-business customers with pay-per-use International Roaming that the customer has the option of utilizing the Usage Notification and how the customer may obtain additional information on International Roaming and the Usage Notification.
- b. The notification in 5.a shall be in a separate mailing (postcard or letter).
- c. The notification in 5.a. shall be in at least six bill messages within a 12 month period.
- d. Within 30 days of the date the Usage Notification is made available, AT&T shall provide information to California non-business customers at service activation that the customer may set a Usage Notification.
- e. Within 30 days of the date the Usage Notification is implemented, AT&T will prominently display an alert referencing the information contained in 5.a. on the Web landing page/screen for customer online account management. This alert will be in effect for a minimum of 90 days, and may be combined with the alert in 1.f.
- f. Following the initial alert in 5.e., AT&T will display the alert every six months with each alert lasting for a 30-day period and the alert may be combined with the alert in 1.f. In the alternative, AT&T may provide a one-time notification that appears on the Web landing page/screen for customer online account management with the information contained in 5.a. that the California non-business customer must take an affirmative action to remove from the screen. AT&T will in its sole discretion determine which alternative to employ.

## **6. International Roaming Rate Notification**

- a. Within 120 days of the date the Settlement is approved by the Commission, AT&T will send California non-business customers with pay-per-use voice and pay-per use data international roaming services a free SMS message when the customer arrives in a country with the international roaming rate for that country, unless the billing system is offline for maintenance. The SMS message will instruct the customer how he/she may obtain additional information on International Roaming. AT&T will indicate on its website that California non-business customers with pay-per-use voice and pay-per use data international roaming services will be sent this SMS message.

## **7. International Roaming Unblocking Notification for Future Customers**

- a. AT&T will send California non-business customers an SMS message when International Roaming is unblocked. The notice should instruct the customer how he/she may obtain additional information about International Roaming.
- b. The additional information referenced in 7.a., above, will include, but is not limited to, the following, to the extent that it remains relevant: 1) inform customers that they may be charged for incoming phone calls that go directly to voicemail when the phone is turned on in a foreign country; 2) provide an international customer service number that may be dialed free of charge from the customer's AT&T wireless phone from anywhere in the world that the customer's AT&T wireless phone can make calls; 3) provide specific rates for International Roaming; 4) provide information regarding the customized Usage Notification, when available, and 5) provide information for removing and/or blocking International Roaming.

## **8. International Roaming Consumer Information Campaign**

- a. Within 90 days of the approval of this Settlement, the following information will be included on the AT&T website, to the extent the information remains relevant: 1) inform customers that they may be charged for incoming phone calls that go directly to voicemail when the phone is turned on in a foreign country; 2) provide an international customer service number that may be dialed free of charge from the customer's AT&T wireless phone from anywhere in the world that the customer's AT&T wireless phone can make calls; 3) provide specific rates for International Roaming; 4) inform customers that International Roaming is included with his/her service; and 5) provide information for removing and/or blocking International Roaming.
- b. AT&T shall also include information about the Usage Notification on its website when the Usage Notification is available to California consumers.

- c. Within 90 days of the date the Usage Notification is made available, AT&T will amend its Terms and Conditions of Wireless Service to describe the Usage Notification. AT&T will also indicate in its Terms and Conditions of Wireless Service that adding, removing or adjusting the Usage Notification threshold will have no effect on the term of the customer's wireless contract.

**9. Other Requirements Regarding International Roaming:**

- a. Until the Usage Notification is made available to consumers pursuant to the terms of this Settlement, AT&T will advise UCAN two times per year of the following information, pursuant to a confidentiality agreement, for each of the top 20 countries with which AT&T customers have the highest International Roaming usage based on MOUs: 1) number of carriers in the country with which AT&T has roaming agreements, and 2) number of those carriers that are exchanging records via NRTRDE with AT&T.
- b. AT&T will credit Meskerem Abera's account in full reflecting no outstanding balance. AT&T will also send a letter to Ms. Abera documenting that a full credit has been applied to her account and that there is no negative report by AT&T to the credit bureaus.
- c. AT&T will endeavor to construct an effective, easy to use Web page for use by California customers to set a threshold for Usage Notification, when the Usage Notification is made available to consumers. The Web page will identify the countries for which the Usage Notification is available.
- d. In the event technology or process changes arise that would render benefits to consumers superior to those provided for in this Settlement, AT&T in its sole discretion can implement those changes in lieu of the requirements stated herein. AT&T will notify UCAN of the new technologies or processes that it implements in such instance and will identify how the benefits to consumers are superior.
- e. AT&T will not without a specific customer request unblock International Roaming for a secondary-line on a California non-business account.
- f. AT&T will provide to UCAN copies of notices required in 1.a., 1.d., 1.e., 3.c., 5.a., 5.d., and 5.e. AT&T will also provide to UCAN pursuant to an agreed upon non-disclosure agreement the following one-time reports 30 days after the following stated date: i) 180 days after implementation of 1.e. the number of California consumers that click to receive additional information; 2) 180 days after implementation of 3.a. the number of California customers that choose to have International Roaming blocked; and, 3) 180 days after implementation of 4.a. the number of California customers that choose Usage Notification and the level chosen for notification.

## 10. Further Requirements

- a. The Parties agree that this Settlement is a compromise and settlement of disputed claims at issue in this Complaint. Nothing in this Settlement shall be deemed as an admission of any allegation in the Complaint, a concession that such claims are without substantial merit, or that the Commission has jurisdiction over the underlying issues of the Complaint. The Parties agree that the obligations assumed pursuant to this Settlement are without any prejudice to positions each Party has taken, or may hereafter take, in any future or concurrent proceeding, subject to the limitations of 10.b.
- b. UCAN agrees not to file any complaints or civil actions against AT&T or its Wireless Affiliates related to the issues in the Complaint other than as provided in paragraph 10.c. below.
- c. If UCAN believes that a breach of the Settlement has occurred, it will notify AT&T of the potential breach and provide an opportunity to promptly cure such breach before filing any complaint with the Commission. Any complaint filed for breach of this Agreement must be filed with the Commission, who all parties hereto agree shall have jurisdiction to enforce the terms hereof..
- d. Implementation of this Settlement is subject to final approval by the Commission of this Settlement in its entirety. The Parties agree to actively support prompt approval of this Settlement, including briefing, comments on any proposed decision, written and oral testimony if necessary, appearances, and other means as may be needed to obtain the necessary approval of the Commission.
- e. The Parties further agree to actively, cooperatively, and in good faith defend this Settlement if opposed by others.
- f. In the event the Commission rejects or modifies this Settlement in a material way, the Parties each reserve the right to withdraw from the Settlement. The Parties agree to a good faith renegotiation process in the event the Commission rejects or modifies this Settlement in a material way.
- g. No Party shall seek, directly or indirectly, to have the Commission modify the terms of this Settlement without the express written consent of all other Parties.
- h. Except as to such rights or claims created by this Settlement, each Party hereby releases, remises and forever discharges the other Party hereto and its counsel from any and all claims, demands, causes or causes of action, obligations, damages and liabilities of any kind or nature whatsoever (all hereinafter referred to as "Claims"), heretofore or hereafter arising out of the facts which are the subject of the Complaint and any allegations contained therein prior to the effective date hereof.

- i. Each Party is aware that it may hereafter discover claims or facts in addition to or different from those it now knows or believes to be true with respect to the Claims described in Section 10.h. Nevertheless, it is the intention of the Parties to fully, finally and forever settle and release all Claims described in Section 10.h, which do not now exist, may exist, or heretofore have existed between them. In furtherance of such intention, the releases given herein shall be and remain in effect as full and complete mutual releases of all such claims, notwithstanding the discovery or existence of any additional or different claims or facts relative thereto.
- j. With respect to this Settlement Agreement and the releases set forth in Sections 10.h. and 10.i. above, the Parties hereby expressly waive the provisions of Section 1542 of the California Civil Code, which provides that:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

The Parties acknowledge that they have had the opportunity to confer with their respective counsel regarding the legal effect and significance of this waiver. The Parties further acknowledge that this Settlement has been negotiated and agreed upon in light of this situation and expressly waive any and all rights which they may have under Section 1542 of the California Civil Code, or any other state or federal statute or common law principle of similar effect.

- k. The Parties each acknowledge that they have had a full and unhindered opportunity to consult with attorneys of their own choosing before entering into this Settlement.
- l. This Settlement sets forth the entire agreement between the Parties and embodies the entire understanding of the Parties with respect to the matters described herein and fully supersedes any and all prior agreements or understanding of any kind whatsoever, whether written, oral, express, implied or otherwise. Any modification or amendment to this Settlement must be in writing and must be signed and dated by all of the Parties, and must explicitly state that it is intended to be an amendment to or modification of this Settlement. The Parties have bargained in good faith to achieve this Settlement, and its provisions are interrelated and therefore non-severable. Each of the Parties has contributed to the preparation of this Settlement. Accordingly, the Parties agree that no provision of the Settlement shall be construed against any party because that party or its counsel drafted the provision. The section headings contained in this Settlement are solely for purpose of reference, are not part of the agreement of the Parties, and shall not in any way affect the meaning or interpretation of this Settlement.
- m. This Settlement may be executed in any number of counterparts and by each Party hereto in separate counterparts, with the same effect as if both Parties had signed one and the same document. All such counterparts shall be deemed to be an original and shall together constitute one and the same Settlement.

C.07-08-033 ALJ/CMW/jt2 knowledge and covenant that they are duly authorized to execute this Settlement on behalf of their respective principals and that such execution is made within the course and scope of their respective agency and/or employment.

- o. This Settlement and all discussions relating thereto are subject to the provisions of Rule 12.6 of the Commission's Rules of Practice and Procedure and Section 1152 of the California Evidence Code.
- p. The Parties shall promptly inform the Commission by way of a joint motion that the Parties have fully resolved all disputes at issue in C-07-08-033 and request that the Commission approve this Settlement and dismiss the C-07-08-033, with prejudice.
- q. This Settlement will be effective on the date it is approved by the Commission and will terminate one year following AT&T's implementation of the provision in 4.a. or July 1, 2012, whichever is earlier. If the Commission approves this Settlement after February 1, 2009, the termination date of this Settlement will be one year following AT&T's implementation of the provision in 4.a. or January 1, 2013, whichever is earlier.

IN WITNESS WHEREOF, the parties hereto have executed this Settlement.

Dated: October 16, 2008

UCAN

By:   
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

Dated: \_\_\_\_\_, 2008

New Cingular Wireless PCS, LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

- n. The undersigned hereby acknowledge and covenant that they are duly authorized to execute this Settlement on behalf of their respective principals and that such execution is made within the course and scope of their respective agency and/or employment.
- o. This Settlement and all discussions relating thereto are subject to the provisions of Rule 12.6 of the Commission's Rules of Practice and Procedure and Section 1152 of the California Evidence Code.
- p. The Parties shall promptly inform the Commission by way of a joint motion that the Parties have fully resolved all disputes at issue in C-07-08-033 and request that the Commission approve this Settlement and dismiss the C-07-08-033, with prejudice.
- q. This Settlement will be effective on the date it is approved by the Commission and will terminate one year following AT&T's implementation of the provision in 4.a. or July 1, 2012, whichever is earlier. If the Commission approves this Settlement after February 1, 2009, the termination date of this Settlement will be one year following AT&T's implementation of the provision in 4.a. or January 1, 2013, whichever is earlier.

IN WITNESS WHEREOF, the parties hereto have executed this Settlement.

Dated: \_\_\_\_\_, 2008

UCAN

By: \_\_\_\_\_

Name:

Its:

Dated: October 17, 2008

New Cingular Wireless PCS, LLC

By: 

Name: David Christopher

Its: Chief Marketing Officer

The undersigned attorneys at law for the respective parties represent that they have fully explained this Settlement to their respective clients, who have acknowledged an understanding of these terms and conditions and the legal effect thereof.

Dated: October 17, 2008

By:   
Name:  
Attorney for UCAN

Dated: \_\_\_\_\_, 2008

By: \_\_\_\_\_  
Name:  
Attorney for New Cingular Wireless PCS, LLC

The undersigned attorneys at law for the respective parties represent that they have fully explained this Settlement to their respective clients, who have acknowledged an understanding of these terms and conditions and the legal effect thereof.

Dated: \_\_\_\_\_, 2008

By: \_\_\_\_\_

Name:

Attorney for UCAN

Dated: Oct. 17<sup>th</sup>, 2008

By: Cindy Mal

Name: Cindy Mannheim

Attorney for New Cingular Wireless PCS, LLC

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of the **JOINT MOTION OF UCAN AND AT&T MOBILITY FOR APPROVAL OF SETTLEMENT AGREEMENT** in **C.07-08-033** by electronic mail and/or by hand-delivery to the person in the official Service List.

Executed this 17th day of October 2008, at San Francisco, California.

**AT&T**  
525 Market Street, 20th Floor  
San Francisco, CA 94105

/s/

---

Hugh Osborne

**SERVICE LIST: C0708033**

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C.07-08-033 ALJ/CMW/jt2

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