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11 **BEFORE THE HEARING BOARD OF THE**  
12 **SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT**

13 **In the Matter of**

14 NEW CINGULAR WIRELESS PCS, LLC  
15 DBA AT&T MOBILITY [Facility ID No. 165640]

16 Petitioner.

17 vs.

18 SOUTH COAST AIR QUALITY  
19 MANAGEMENT DISTRICT.

20 Respondent.

CASE NO. 5991-2

21 **[PROPOSED] FINDINGS AND**  
22 **DECISION AND ORDER**  
23 **GRANTING ~~REGULAR~~ SHORT**  
24 **VARIANCE**

25 Hearing Date: November 20, 2024  
26 Time: 9:30 a.m.  
27 Place: Hearing Board  
28 South Coast Air

Quality  
Management District  
21865 Copley Drive  
Diamond Bar, CA  
91765

21 This Petition for a Short Variance was heard on the Hearing Board’s Consent Calendar on  
22 November 20, 2024, pursuant to notice and in accordance with the provisions of the California  
23 Health and Safety Code section 40826 and South Coast Air Quality Management District (“South  
24 Coast AQMD”) Rule 510. The following members of the Hearing Board were present: Micah Ali,  
25 Chair; Robert Pearman, Vice Chair; Mohan Balagopalan; Cynthia Verdugo-Peralta; and Sharon  
26 Williams, MD, FACAAI, Alternate. New Cingular Wireless PCS, LLC dba AT&T Mobility  
27 (“Petitioner”), did not appear. South Coast AQMD (“Respondent”), represented by Ryan P.  
28 Mansell, Senior Deputy District Counsel, did not appear.

1 The matter was submitted for consideration on the Consent Calendar. The public was  
2 given an opportunity to testify. The Declaration of Mr. Bill Winchester was received as evidence,  
3 and the [Proposed] Findings and Decision of the Hearing Board was received. The Parties have  
4 stipulated by Joint Stipulation to Place the Matter on Consent Calendar and to the issuance of this  
5 Order. The Hearing Board finds and decides as follows:

6 **Nature of Business and Location of Facility**

7 AT&T Mobility is a cellular telecommunications carrier, providing telecommunications  
8 services to its customers, including Emergency 911 service support. The AT&T Mobility facility  
9 is located at Strawberry Peak Lookout Road, in San Bernardino, California 92407. AT&T  
10 Mobility operates one permitted equipment unit at the facility; an emergency electrical generator  
11 powered by an LPG-fueled Generac Model No. 6.8GLPN-50, 85.92 brake horsepower (bhp)  
12 engine equipped with a three-way catalyst (catalytic converter) and an air-to-fuel ratio controller  
13 under SCAQMD Permit to Operate Number G10277. The facility is a cellular  
14 telecommunications site, which includes a shelter containing telecommunications hardware, a cell  
15 tower equipped with microwave antennas, and the emergency generator set. The facility is  
16 responsible for supporting Emergency 911 coverage and other cellular telecommunications in the  
17 area and requires electricity to keep equipment operable and maintain cellular service. The  
18 facility has access to utility power, but in the event of a power failure the emergency generator  
19 operates to provide power to the facility. If the site does not have power, then the equipment does  
20 not work, and the facility cannot provide critical telecommunications services. The site has  
21 batteries that can power the facility for a short period of time, but these are a last resort and have  
22 limited capacity. The batteries are generally used for load transition and to avoid interruption in  
23 electrical supply to the facility when an outage occurs. The emergency engine powering the  
24 generator is permitted to operate up to 50 hours per calendar year for testing and maintenance  
25 (non-emergency) purposes, and the permit limits total operations (including emergency use) to  
26 200 hours per calendar year. Generally, an AT&T Mobility technician or contractor will inspect  
27 the facility and equipment monthly to address routine maintenance tasks. The emergency engine  
28 will typically be run for 15-30 minutes per month for reliability testing. Once-per-year, AT&T

1 Mobility conducts expanded annual readiness testing, where the engine may be run for up to 4  
2 hours to test the facility electrical system and to ensure that the generator will handle the site load  
3 properly and without issue. Emergency operations are not predictable.

4 **Equipment that is the Subject of the Variance Petition**

5 The permitted equipment is a 50-kilowatt emergency generator powered by a LPG-fueled  
6 stationary spark-ignition emergency internal combustion engine. The emergency engine is a  
7 Generac Model No. 6.8GLPN-50 producing 85.92 bhp equipped with a catalytic converter and  
8 air-to-fuel ratio controller. The emergency engine is limited by SCAQMD permit to 50 hours per  
9 year of testing and maintenance operations and no more than 200 total operating hours per year,  
10 including emergency operations. The engine is served by an LPG fuel tank that is refueled as  
11 needed.

12 **SUMMARY**

13 Due to an act of criminal mischief (vandalism) the electrical switchgear that serves the  
14 AT&T Mobility facility was damaged which severed the site from utility power. With the loss of  
15 power, the emergency generator was activated to ensure that the facility could continue providing  
16 uninterrupted vital telecommunications services, including Emergency 911 support, during the  
17 outage. Based on AT&T Mobility's records, the emergency generator activated around 15:19 on  
18 June 28, 2024, which suggests the vandalism occurred around this time and date. The vandalism  
19 caused damage to the electrical infrastructure that was managed by the property owner and was  
20 not AT&T Mobility's responsibility to maintain or repair.

21 On July 1, 2024, AT&T Mobility contacted the property owner to inform them of the  
22 ongoing power outage and to request repairs. The property owner was able to complete repairs to  
23 the electrical switchgear on July 17, 2024, thereby restoring utility power to the AT&T Mobility  
24 facility. With the utility power restored, the engine was able to be shut down on the same date.  
25 Prior to the incident, AT&T Mobility had accumulated a total of 18.6 hours of total runtime on  
26 the engine during 2024 and was not in violation. The total runtime for the engine between June  
27 28, 2024, and July 17, 2024, was 446.4 hours, causing the engine to exceed the permitted total  
28 operating limit of 200 hours for the calendar year. The engine was run again for testing and

1 maintenance on August 7, 2024.

2 AT&T Mobility did not shut down the engine when it reached 200 hours of operation  
3 because of the critical nature of the telecommunications services being provided, and the site  
4 technician's misunderstanding of the SCAQMD operating limit during emergency use. The  
5 technicians responsible for overseeing the operations at this facility are also responsible for  
6 operations at sites in neighboring air districts, where there are no emergency-use operating limits.  
7 The technician did not realize that the emergency and subsequent testing and maintenance  
8 operations caused an exceedance of the permitted operating limit until a SCAQMD inspection  
9 occurred at the facility when the violation was identified. The inspection occurred on August 21,  
10 2024, and the Environmental Site Manager (ESM) notified AT&T Mobility Environmental  
11 Health & Safety (EH&S) that a Notice of Violation (NOV) would be issued. NOV No. P79713  
12 was issued on August 22, 2024, for a violation of Rule 203(b) and permit condition no. 4 that  
13 limits total engine operations on a calendar year basis.

14 Between August 21, 2024, and September 16, 2024, AT&T Mobility EH&S investigated  
15 the circumstances of the violation and engaged its corporate management and legal counsel to  
16 determine a resolution. AT&T Mobility considered shutting the engine down for the remainder  
17 of the calendar year, but it was ultimately decided that it could pose a risk to the public health and  
18 safety to do so. AT&T Mobility determined that petitioning for a SCAQMD Hearing Board  
19 variance was needed to keep the engine online and maintain its critical telecommunications  
20 services. AT&T Mobility retained the services of Montrose Environmental Solutions, Inc. on  
21 September 16, 2024, to assist with the variance petition form preparation and submittal.

22 Due to the Line Fire affecting areas near the AT&T Mobility facility, the power utility  
23 company shut down power to the site on September 19 and 20, 2024. The AT&T Mobility  
24 emergency generator ran for one (1) hour on each day during the PSPS events. AT&T Mobility  
25 understands that these additional emergency operations may constitute additional violations;  
26 however, due to the critical nature of the site for Emergency 911 telecommunications services and  
27 the nearby wildfire threatening the area, preventing the emergency generator from running during  
28 power failures could have put public health and safety at risk.

1 On October 9, 2024, the complete petition for a short variance was submitted to the Clerk  
2 of the Board electronically, via email. The following day, October 10, 2024, Montrose submitted  
3 the hardcopies of the petition to the Clerk of the Board's office. The variance is needed to protect  
4 public health and safety in the area, as it would ensure AT&T Mobility can keep its cellular  
5 telecommunications services online in the event of utility power failures for the remainder of the  
6 2024 calendar year. This includes critical Emergency 911 communications services provided by  
7 AT&T Mobility's facility, serving the nearby towns of Rimforest and Twin Peaks. AT&T  
8 Mobility is requesting the ability to run its emergency generator for testing and maintenance for  
9 one (1) hour in November 2024, and one (1) hour in December 2024, and an allowance to operate  
10 during emergency events through December 31, 2024.

11 **FINDINGS OF FACT**

12 **A. The petitioner for a variance is, or will be, in violation of Section 41701 or of any**  
13 **rule, regulation or order of the District or any federally enforceable permit terms**  
14 **and conditions that are based on Section 41701 or of any applicable rule or**  
15 **regulation of the District.**

16 SCAQMD Rule 203(b) requires compliance with permit conditions; PO G10277 condition  
17 no. 4 limits total operating time for the emergency engine to no more than 200 hours per calendar  
18 year. The Petitioner is in violation of the rule and permit condition because the emergency engine  
19 has operated for more than 200 total hours during 2024. Should there be any further interruption  
20 of utility power, Petitioner would be in imminent and immediate violation of PO G10277  
21 condition no. 4, due to the automated and necessary functions of the emergency engine.

22 **B. Non-compliance with District Rule(s) is due to conditions beyond the reasonable**  
23 **control of the petitioner, and requiring compliance would result in either (A) an**  
24 **arbitrary or unreasonable taking of property, or (B) the practical closing and**  
25 **elimination of a lawful business**

26 AT&T Mobility ran the emergency engine during an extended power failure event  
27 resulting from a criminal act of vandalism that damaged the electrical switchgear thereby severing  
28

1 the utility power to the facility. The property owner was responsible for maintaining and  
2 repairing the electrical switchgear and AT&T Mobility notified the responsible party for the  
3 property owner to report the power outage at the facility as soon as possible. The emergency  
4 engine had to run more than 200 hours to mitigate the emergency condition. AT&T Mobility had  
5 no control over the vandalism that caused damage to the electrical switchgear, causing the power  
6 failure, nor did it have control over the repairs required to restore utility power; therefore, non-  
7 compliance with the SCAQMD rules was due to conditions beyond the reasonable control of  
8 AT&T Mobility. Requiring compliance would prevent the emergency engine from operating for  
9 the remainder of the 2024 calendar year. The actual financial consequences if the variance is not  
10 granted are not known, but the possibility that a critical telecommunications facility would not be  
11 available to facilitate Emergency 911 support or other cellular services in the area could have  
12 significant impacts on the safety of anyone in the area. As a high fire-threat area, maintaining this  
13 critical telecommunications site with Emergency 911 support is important to protecting public  
14 health and safety.

15 **C. The closing or taking would be without a corresponding benefit in reducing air**  
16 **contaminants.**

17 The maximum daily potential emissions from the engine could occur during full 24-hours  
18 of operation at 100% load, which reflects a full day of emergency-use or the worst-case operating  
19 scenario. In the worst-case scenario, the engine could emit approximately 2.3 pounds/day of CO  
20 emissions and less than 1 pound/day of each other criteria air pollutant. The highest emission rate  
21 for any single toxic air contaminant is approximately 0.0082 pound/day (Formaldehyde) and the  
22 total combined TAC emission rate is approximately 0.02 pound/day. The LPG-fueled engine  
23 does not emit diesel particulate matter and is equipped with a catalytic converter that greatly  
24 reduces emissions of criteria pollutants and TACs. Furthermore, actual daily excess emissions are  
25 expected to be much lower than the worst-case scenario, since the only predictable operations will  
26 be for monthly readiness testing, which would not exceed 1 hour/month during the variance  
27 period. The facility is co-located with other commercial facilities, so the distance to the nearest  
28 off-site worker receptor is less than 25 feet. The nearest sensitive receptor is a residence located

1 over 1,000 feet away from the engine exhaust. The nearest K-12 school is located over a mile  
2 away. Based on the low emissions from the engine, the limited use, and the distances to  
3 receptors, the potential risk to public health and safety due to the loss of critical  
4 telecommunications services in the area, including Emergency 911 support, will outweigh the  
5 potential benefit to air quality of prohibiting the emergency engine operations.

6 **D. The applicant for the variance and has given consideration to curtailing**  
7 **operations of the source in lieu of obtaining a variance.**

8 To ensure that the telecommunications facility stays online, AT&T Mobility cannot  
9 commit to curtailing or terminating emergency operations. AT&T also believes that periodic  
10 readiness testing of its emergency engine cannot be terminated for the remainder of the year.  
11 Terminating all readiness testing would pose a risk to the site losing power in the event of another  
12 power failure, which could lead to the loss of the critical telecommunications site and the loss of  
13 Emergency 911 support in the area. AT&T is willing to accept curtailment to readiness testing  
14 time, such as limiting monthly readiness testing to 1 hour per month and would delay its extended  
15 annual testing event until 2025.

16 **E. During the period the variance is in effect, the applicant will reduce excess**  
17 **emissions to the maximum extent feasible.**

18 During the Short Variance period, AT&T Mobility will limit non-emergency operations to  
19 1 hour per month. This is the minimum recommended operating time for readiness testing to  
20 ensure the engine is capable of operating in the event of an emergency. The variance will only  
21 last through December 31, 2024, so the maximum predictable non-emergency operating time for  
22 the engine would be 2 hours or less during the variance. Although an emergency event could  
23 result in more significant engine operations, up to 24 hours/day, such operations are not  
24 predictable, and the chance of an extended emergency operating event occurring between  
25 November 20, 2024, and December 31, 2024, is minimal.





1 (ajohn@aqmd.gov) on the first Tuesday of each month beginning December 3,  
2 2024. The operating log shall list all engine operations in the following areas:

- 3
- 4 a. Date and hours of emergency operation, and specify the cause of the
- 5 emergency;
- 6 b. Date and hours of maintenance and testing operations; and
- 7 c. Date and hours of any other non-emergency operation.
- 8

9 3. ~~Petitioner shall pay all applicable fees to the Clerk of the Board or the variance shall be~~  
10 ~~invalidated pursuant to Rule 303(k), except for excess emissions fees, which shall be paid~~  
11 ~~within fifteen (15) days of notification in writing that the fees are due, unless otherwise~~  
12 ~~ordered by the Hearing Board.~~ Petitioner shall calculate, record, and report all excess  
13 emissions during the variance period, and pay appropriate excess emission fees to  
14 the Clerk of the Board by January 31, 2025. ~~Petitioner may exclude any hours the~~  
15 ~~ICEs are operated for Public Safety Power Shutoff (“PSPS”) events as defined by~~  
16 ~~Rule 118.1 by following the procedures in Rule 118.1(d), if Petitioner complies~~  
17 ~~with the notification and reporting requirements of Rule 118.1(e) and (f).~~

18

19 4. Except as otherwise permitted in variance condition #1, Petitioner  
20 shall cease operation of the ICE (PO No. G10277).

21

22

23 FOR THE BOARD: \_\_\_\_\_

24

25 DATED: \_\_\_\_\_

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