



STATE OF ARKANSAS
**Department of Finance
and Administration**

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December 3, 2015

Tim Leathers, Deputy Director
Arkansas Department of Finance & Administration
1509 West 7th Street, Room 401
Little Rock, AR 72201

RE: *New Cingular Wireless PCS LLC and AT&T Mobility Wireless Operations Holdings, Inc. as successor to Pine Bluff Cellular, Inc. v. Larry W. Walther, in his official capacity as Director of the Arkansas Department of Finance and Administration*
Pulaski County Circuit Court Case No. 60CV-14-1722
Settlement Recommendation

Dear Deputy Director Leathers:

This letter is sent to request approval to settle the above referenced matter according to the terms of the attached Settlement and Release Agreement (“Agreement”). Settlement is recommended on the basis that the Department has determined that the charges on which the Plaintiffs levied and remitted tax are likely exempt Internet Access Services and that the refund requested will be paid to the affected consumers in Arkansas under the supervision of the Federal District Court overseeing the multi-district class action litigation on this issue, *In re AT & T Mobility Wireless Data Services Sales Tax Litig.*, 789 F. Supp. 2d 935, 983 (N.D. Ill. 2011).

Under the terms of the attached Agreement, the Department will provide a tax credit to the Plaintiffs in the amount of \$18,000,000.00, which includes tax and interest on a proportional basis to the state, county, and municipal taxes that are owed from April through September of 2016, at a rate of \$3,000,000.00 per month. This amount reflects the taxes paid by the Plaintiffs that were within the Request for Refund Statute of Limitations at the time of the request, plus interest and less an amount negotiated in the settlement process. The Parties will determine the exact methodology to calculate those proportions. The Agreement includes a provision to void the settlement if it is not approved by the Litigation Reports Oversight Subcommittee and the ALC.

If you approve of the terms of the attached Agreement, I respectfully request that I be authorized to sign the Agreement and that you forward the attached Agreement to the Litigation Reports Oversight Subcommittee for review and approval.

Sincerely,

Paul Gehring, Chief Counsel
Revenue Legal Counsel

Attachment: Settlement and Release Agreement