



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
445 TWELFTH STREET, S.W.
WASHINGTON, D.C. 20554

DA 05-168

News media information 202/418-0500 Fax-On-Demand 202/418-2830 Internet: <http://www.fcc.gov> <ftp.fcc.gov>

Released: January 26, 2005

CINGULAR WIRELESS LLC AND TRITON PCS HOLDINGS, INC. SEEK FCC CONSENT TO THE TRANSFER OF CONTROL OF LICENSES

WT Docket No. 05-26

PLEADING CYCLE ESTABLISHED

Petitions to Deny Due: February 25, 2005
Oppositions Due: March 7, 2005
Replies Due: March 14, 2005

Triton License Newco, LLC ("Triton Newco"), a wholly-owned subsidiary of Triton PCS Holdings, Inc. ("Triton"), and AWS License Newco, LLC ("AWS Newco"), a wholly-owned subsidiary of Cingular Wireless LLC ("Cingular"), have filed two applications seeking approval, pursuant to Section 310(d) of the Communications Act of 1934, as amended,¹ for the transfer of control of Personal Communications Services ("PCS") and common carrier fixed point-to-point microwave licenses. The Applicants seek Commission consent to transfer control of PCS licenses held by Triton Newco from Triton to Cingular, and PCS and ancillary microwave licenses held by AWS Newco from Cingular to Triton. As a result of the proposed spectrum exchange, Triton will acquire between 7.5 MHz and 20 MHz of PCS spectrum in Puerto Rico, the United States Virgin Islands, and parts of North Carolina and South Carolina,² and Cingular will acquire between 10 MHz and 50 MHz of PCS spectrum in parts of Virginia, North Carolina, and West Virginia.³

I. SECTION 310(d) APPLICATIONS

The following applications for consent to transfer control of PCS and microwave licenses granted pursuant to Parts 24 and 101 of the Commission's rules have been assigned the file numbers below:

<u>File No.</u>	<u>Licensee</u>	<u>Lead Call Sign</u>
0001963881	AWS License Newco, LLC	WPOU284

¹ 47 U.S.C. § 310(d).

² Post-transaction, Triton will hold between 20 MHz and 35 MHz of spectrum in the applicable markets.

³ Post-transaction, Cingular will hold between 30 MHz and 85 MHz of spectrum in the applicable markets.

<u>File No.</u>	<u>Licensee</u>	<u>Lead Call Sign</u>
0001963918	Triton License Newco, LLC	WPOI204

II. *EX PARTE* STATUS OF THIS PROCEEDING

Pursuant to section 1.1200(a) of the Commission's rules,⁴ the Commission may adopt modified or more stringent *ex parte* procedures in particular proceedings if the public interest so requires. We announce that this proceeding will be governed by permit-but-disclose *ex parte* procedures that are applicable to non-restricted proceedings under section 1.1206 of the Commission's rules.⁵

Parties making oral *ex parte* presentations are directed to the Commission's statement re-emphasizing the public's responsibility in permit-but-disclose proceedings and are reminded that memoranda summarizing the presentation must contain the presentation's substance and not merely list the subjects discussed.⁶ More than a one- or two-sentence description of the views and arguments presented is generally required.⁷ Other rules pertaining to oral and written presentations are set forth in section 1.1206(b) as well.⁸ We urge parties to use the Electronic Comment Filing System ("ECFS") to file *ex parte* submissions.⁹

III. GENERAL INFORMATION

The applications referenced herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules or policies. Final action on these applications will not be taken earlier than thirty-one days following the date of this Public Notice.¹⁰

Interested parties must file petitions to deny no later than **February 25, 2005**. Persons and entities that file petitions to deny become parties to the proceeding. They may participate fully in the proceeding, including seeking access to any confidential information that may be filed under a protective order, seeking reconsideration of decisions, and filing appeals of a final decision to the courts. Oppositions to such pleadings must be filed no later than **March 7, 2005**. Replies to such pleadings must be filed no later than **March 14, 2005**. All filings concerning matters referenced in this Public Notice should refer to **DA 05-168** and **WT Docket No. 05-26**, as well as the specific file numbers of the individual applications or other matters to which the filings pertain.

Under the Commission's current procedures for the submission of filings and other documents,¹¹ submissions in this matter may be filed electronically (*i.e.*, through ECFS) or by hand delivery to the Commission's Massachusetts Avenue location.

⁴ 47 C.F.R. § 1.1200(a).

⁵ *Id.* § 1.1206.

⁶ See Commission Emphasizes the Public's Responsibilities in Permit-But-Disclose Proceedings, *Public Notice*, 15 FCC Rcd. 19,945 (2000).

⁷ See 47 C.F.R. § 1.1206(b)(2).

⁸ *Id.* § 1.1206(b).

⁹ See discussion *infra* Part III.

¹⁰ See 47 U.S.C. § 309(b); see also Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets, *Report and Order and Further Notice of Proposed Rulemaking*, 18 FCC Rcd. 20,604 (2003).

¹¹ See Implementation of Interim Electronic Filing Procedures for Certain Commission Filings, *Order*, 16 FCC Rcd.

- **If filed by ECFS,**¹² comments shall be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.
- **If filed by paper,** the original and four copies of each filing must be filed by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, S.W., Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

One copy of each pleading must be delivered electronically, by e-mail or facsimile, or if delivered as paper copy, by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (according to the procedures set forth above for paper filings), to: (1) the Commission's duplicating contractor, Best Copy and Printing, Inc., at FCC@BCPIWEB.COM or (202) 488-5563 (facsimile); (2) Erin McGrath, Mobility Division, Wireless Telecommunications Bureau, at erin.mcgrath@fcc.gov, or (202) 418-7447 (facsimile); (3) Susan Singer, Spectrum and Competition Policy Division, Wireless Telecommunications Bureau, at susan.singer@fcc.gov, or (202) 418-7447 (facsimile); and (4) Kathy Harris, Mobility Division, Wireless Telecommunications Bureau, at kathy.harris@fcc.gov, or (202) 418-7447 (facsimile).

Copies of the applications and any subsequently-filed documents in this matter may be obtained from Best Copy and Printing, Inc. in person at 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, via telephone at (202) 488-5300, via facsimile at (202) 488-5563, or via e-mail at FCC@BCPIWEB.COM. The applications and any associated documents are also available for public inspection and copying during normal reference room hours at the following Commission office: FCC Reference Information Center, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. The applications are also available electronically through the Commission's ECFS, which may be accessed on the Commission's Internet website at <http://www.fcc.gov>. In addition, applications filed under Parts 22, 24, 27, 90, and 101 of the Commission's rules are available electronically through ULS, which may be accessed on the Commission's Internet website. Additional information regarding the transaction will be

21,483 (2001); *see also* FCC Announces a New Filing Location for Paper Documents and a New Fax Number for General Correspondence, *Public Notice*, 16 FCC Rcd. 22,165 (2001); Reminder: Filing Locations for Paper Documents and Instructions for Mailing Electronic Media, *Public Notice*, 18 FCC Rcd. 16,705 (2003).

¹² *See* Electronic Filing of Documents in Rulemaking Proceedings, GC Docket No. 97-113, *Report and Order*, 13 FCC Rcd. 11,322 (1998).

available on the FCC's Office of General Counsel's website, <http://www.fcc.gov/ogc>, which will contain a fully indexed, unofficial listing and electronic copies of all materials in this docket. Alternate formats of this public notice (computer diskette, large print, audio recording, and Braille) are available to persons with disabilities by contacting Brian Millin at (202) 418-7426 (voice), (202) 418-7365 (TTY), or send an e-mail to access@fcc.gov.

For further information, contact Erin McGrath, Mobility Division, Wireless Telecommunications Bureau, at (202) 418-2042, or Susan Singer, Spectrum and Competition Policy Division, Wireless Telecommunications Bureau, at (202) 418-1340.

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