



# PUBLIC NOTICE

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## WIRELESS TELECOMMUNICATIONS BUREAU MOBILITY DIVISION APPROVES WITHDRAWAL OF PETITION FOR RECONSIDERATION

By this Public Notice, the Mobility Division (“Division”) of the Wireless Telecommunications Bureau approves the Consent Motion to Withdraw Petition for Reconsideration filed by Darrell Bauguess (“Bauguess”), Peter Lewis (“Lewis”), and Lewis Telecom, Inc. (collectively, “Petitioners”), on October 31, 2006 (“Motion to Withdraw”).<sup>1</sup>

On June 19, 2006, the Petitioners filed a petition seeking reconsideration (“Petition for Reconsideration”)<sup>2</sup> of the Wireless Telecommunications Bureau’s approval of the assignment of licenses from Lone Star Wireless, Inc. (“Lone Star”) to American Cellular Corporation.<sup>3</sup> The Bureau’s consent to the assignment of one Cellular Radiotelephone Service and eight Broadband Personal Communications Service licenses appeared on public notice on May 17, 2006.<sup>4</sup> The Petitioners sought reconsideration of the Bureau’s action alleging that the majority owner of Lone Star, Kent Foster (“Foster”), failed to honor the terms of a prior settlement agreement resolving a civil dispute with the Petitioners (“Prior Settlement”).<sup>5</sup> The Petitioners allege that, while attempting to collect the funds owed to them under the Prior Settlement, Foster refused to make the payment and argued that the Prior Settlement involved the dismissal of an objection filed in a Commission proceeding, in violation of 1.935 the Commission’s rules (“the greenmail rule”).<sup>6</sup> Several pleadings were filed in response to the Petition for Reconsideration.<sup>7</sup>

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<sup>1</sup> Application of Lone Star Wireless, L.L.C. For Consent to Assign the Licenses of KNKQ428, WPXX267, WPZL387, WQAM448, WQAM549, WQAM550, WQAM551, WQAM552, WQAM553 to American Cellular Corporation, *Consent Motion to Withdraw Petition for Reconsideration*, filed by Darrell Bauguess, Peter Lewis, and Lewis Telecom, Inc. (Oct. 31, 2006).

<sup>2</sup> Application of Lone Star Wireless, L.L.C. For Consent to Assign the Licenses of KNKQ428, WPXX267, WPZL387, WQAM448, WQAM549, WQAM550, WQAM551, WQAM552, WQAM553 to American Cellular Corporation, *Petition for Reconsideration*, filed by Darrell Bauguess, Peter Lewis, and Lewis Telecom, Inc. (filed June 19, 2006).

<sup>3</sup> Application to Assign Licenses Held by Lone Star Wireless, L.L.C. to American Cellular Corporation, File No. 0002562949 (filed Apr. 11, 2006).

<sup>4</sup> Wireless Telecommunications Bureau Assignment of License Authorization Applications, Transfer of Control of Licensee Applications, De Facto Transfer Lease Applications and Spectrum Manager Lease Notifications Action, *Public Notice*, Report No. 2509 (rel. May 17, 2006).

<sup>5</sup> See Motion to Withdraw at 1.

<sup>6</sup> See *id.*

On October 31, 2006, the Petitioners requested to withdraw the Petition for Reconsideration. The Petitioners, after filing a lawsuit in the District of Columbia to collect the funds owed to them by Foster under the terms of the Prior Settlement, have resolved the dispute, pursuant to the terms of a written settlement (“Release”), with Foster.<sup>8</sup> The Petitioners state that the Release specifically addresses the greenmail issue raised by Foster and discussed in the Motion to Withdraw, and all parties, including Foster, Bauguess and Lewis, state that the Prior Settlement and the Release do not violate any Commission rule or policy, including the greenmail rule.<sup>9</sup>

The Division has reviewed the Petitioner’s Motion to Withdraw and finds that it raises no substantial or material questions of fact. The Division also finds that the Motion to Withdraw complies with section 1.935 of the Commission’s Rules.<sup>10</sup> Accordingly, pursuant to Section 0.331 of the Commission’s rules,<sup>11</sup> the Division hereby approves the withdrawal of, and dismisses with prejudice, the Petition for Reconsideration filed by the Petitioners on October 31, 2006. All other pleadings filed in response to the Petition for Extension in this matter are hereby deemed moot.

Action by the Assistant Chief, Mobility Division.

FOR FURTHER INFORMATION, CONTACT: Erin A. McGrath, Assistant Chief, Mobility Division, at (202) 418-2042 or erin.mcgrath@fcc.gov.

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<sup>7</sup> See Application of Lone Star Wireless, L.L.C. For Consent to Assign the Licenses of KNKQ428, WPXX267, WPZL387, WQAM448, WQAM549, WQAM550, WQAM551, WQAM552, WQAM553 to American Cellular Corporation, *Opposition to Petition for Reconsideration*, filed by American Cellular Corporation (July 5, 2006); Application of Lone Star Wireless, L.L.C. For Consent to Assign the Licenses of KNKQ428, WPXX267, WPZL387, WQAM448, WQAM549, WQAM550, WQAM551, WQAM552, WQAM553 to American Cellular Corporation, *Reply to Opposition to Petition for Reconsideration*, filed by Darrell Bauguess, Peter Lewis, and Lewis Telecom, Inc. (July 17, 2006); Application of Lone Star Wireless, L.L.C. For Consent to Assign the Licenses of KNKQ428, WPXX267, WPZL387, WQAM448, WQAM549, WQAM550, WQAM551, WQAM552, WQAM553 to American Cellular Corporation, *Supplement to Petition for Reconsideration*, filed by Darrell Bauguess, Peter Lewis, and Lewis Telecom, Inc. (Sept. 27, 2006).

<sup>8</sup> See Motion to Withdraw at 1-2. The Petitioner’s note that Foster died on October 30, 2006. See *id.* at 1 n.1.

<sup>9</sup> See *id.* at 2.

<sup>10</sup> 47 C.F.R. § 1.935.

<sup>11</sup> 47 C.F.R. § 0.331.