



# PUBLIC NOTICE

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

**DA 07-4372**

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

**Released: October 23, 2007**

## **T-MOBILE USA, INC. AND SUNCOM WIRELESS HOLDINGS, INC. SEEK FCC CONSENT TO TRANSFER CONTROL OF LICENSES AND AUTHORIZATIONS**

**WT Docket No. 07-237**

### **PLEADING CYCLE ESTABLISHED**

**Petitions to Deny Due: November 23, 2007**  
**Oppositions Due: December 3, 2007**  
**Replies Due: December 10, 2007**

## **I. INTRODUCTION**

T-Mobile USA, Inc. (“T-Mobile”) and SunCom Wireless Holdings, Inc. (“SunCom,” and together with T-Mobile, the “Applicants”) have filed a series of applications pursuant to Sections 214 and 310(d) of the Communications Act of 1934, as amended (the “Communications Act”).<sup>1</sup> In these applications, the Applicants seek Commission approval of the transfer of control of SunCom’s wholly-owned, indirect licensee subsidiaries – SunCom Wireless License Company, LLC and SunCom Wireless Puerto Rico License Co., LLC (the “SunCom Subsidiaries”) – to T-Mobile. To effectuate the transfer of control, Tango Merger Sub, Inc., a newly formed, wholly-owned subsidiary of T-Mobile, will merge with and into SunCom. Upon merging, SunCom will continue as the surviving corporation. The SunCom Subsidiaries will remain indirect, wholly-owned subsidiaries of SunCom and will become indirect, wholly-owned subsidiaries of T-Mobile.

These transfer of control applications pertain to licenses for the Part 22 Cellular Radiotelephone Service, the Part 24 Personal Communications Service and the Part 101 Common Carrier Fixed Point-to-Point Microwave Service, as well as international Section 214 authorizations. The Applicants also request a declaratory ruling that the proposed foreign ownership of the SunCom Subsidiaries in excess of the 25 percent benchmark set forth in Section 310(b)(4) of the Communications Act is in the public interest.<sup>2</sup> Applicants request that the Commission condition grant of the applications and the 310(b)(4) Petition on compliance with the provisions of the January 12, 2001 Security Agreement by Deutsche Telekom AG (“DT”), VoiceStream Wireless Corporation, VoiceStream Wireless Holding Corporation, the Federal Bureau of Investigation and the U.S. Department of Justice.<sup>3</sup>

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<sup>1</sup> 47 U.S.C. §§ 214, 310(d).

<sup>2</sup> 47 U.S.C. § 310(b)(4).

<sup>3</sup> Applications of VoiceStream Wireless Corporation, Powertel Inc, Transferors, and Deutsche Telekom AG,

## II. SECTION 310(d) APPLICATIONS

The following applications for consent to transfer control of the SunCom Subsidiaries' wireless radio service licenses to T-Mobile have been assigned the file numbers listed below.

<u>File No.</u>	<u>Licensee</u>	<u>Lead Call Sign</u>
0003178152 <sup>4</sup>	SunCom Wireless License Company, LLC	KNKN557
0003178835	SunCom Wireless Puerto Rico License Co., LLC	KNLF249

## III. INTERNATIONAL SECTION 214 AUTHORIZATIONS

The following applications for consent to the transfer of control of international Section 214 authorizations held by the SunCom Subsidiaries have been assigned the file numbers listed below.

<u>File No.</u>	<u>Authorization Holder</u>	<u>Authorization Number</u>
ITC-T/C-20071001-00404	SunCom Wireless License Company, LLC	ITC-214-20010308-00124
ITC-T/C-20071001-00405	SunCom Wireless Puerto Rico License Co., LLC	ITC-214-20070626-00246

## IV. PETITION FOR DECLARATORY RULING UNDER SECTION 310(B)(4)

Applicants have filed a petition pursuant to Section 310(b)(4) of the Communications Act for a declaratory ruling that it is in the public interest for the SunCom Subsidiaries to have indirect foreign ownership in excess of the 25 percent benchmark under Section 310(b)(4) of the Communications Act. Upon consummation of the proposed transaction, the SunCom Subsidiaries will become indirect subsidiaries of T-Mobile. T-Mobile is an indirect, wholly-owned subsidiary of DT, a corporation organized under the laws of the Federal Republic of Germany ("FRG"), a World Trade Organization Member country. The two wholly-owned intermediate subsidiaries between T-Mobile and DT are organized under the laws of the FRG. The FRG holds an approximately 14.83 percent direct interest in DT. Kreditanstalt fur Wiederaufbau ("KfW"), a bank organized under the laws of, and controlled by, the FRG, holds an approximately 16.87 percent direct interest in DT. The FRG holds an approximately 80 percent interest in KfW. Applicants request a declaratory ruling allowing DT to hold an indirect ownership interest of up to 100 percent in SunCom and its subsidiaries. The petition for declaratory ruling under Section 310(b)(4) of the Communications Act has been assigned File No. ISP-PDR-20071001-00013.

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Transferee, for Consent to Transfer Control of Licenses and Authorizations Pursuant to Sections 214 and 310(d) of the Communications Act and Petition for Declaratory Ruling Pursuant to Section 310 of the Communications Act, IB Docket No. 00-187, *Memorandum Opinion and Order*, 16 FCC Rcd 9779, 9853 (Appendix B) (2001).

<sup>4</sup> ULS File No. 0003178152 has been designated the lead application for the wireless radio service licenses that are the subject of this transaction. All pleadings and other submissions filed in this matter that pertain generally to the transaction and not to a particular application will be available through this file number in ULS at <http://wireless.fcc.gov/uls/>.

## V. *EX PARTE* STATUS OF THIS PROCEEDING

Pursuant to Section 1.1200(a) of the Commission's rules,<sup>5</sup> 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.<sup>6</sup>

Parties making oral *ex parte* presentations are directed to the Commission's statement reemphasizing 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.<sup>7</sup> More than a one- or two-sentence description of the views and arguments presented is generally required.<sup>8</sup> Other rules pertaining to oral and written presentations are set forth in Section 1.1206(b) as well.<sup>9</sup> We urge parties to use the Electronic Comment Filing System ("ECFS") to file *ex parte* submissions.<sup>10</sup>

## VI. GENERAL INFORMATION

The transfer of control 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.<sup>11</sup>

Interested parties must file petitions to deny no later than November 23, 2007. 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 December 3, 2007. Replies to such pleadings must be filed no later than December 10, 2007. All filings concerning matters referenced in this Public Notice should refer to DA 07-4372 and WT Docket No. 07-237, 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,<sup>12</sup> submissions in this matter may be filed electronically (*i.e.*, though ECFS) or by hand delivery to the Commission's Massachusetts Avenue location, as specified below.

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<sup>5</sup> 47 C.F.R. § 1.1200(a).

<sup>6</sup> *Id.* § 1.1206.

<sup>7</sup> See Commission Emphasizes the Public's Responsibilities in Permit-But-Disclose Proceedings, *Public Notice*, 15 FCC Rcd 19945 (2000).

<sup>8</sup> See 47 C.F.R. § 1.1206(b)(2).

<sup>9</sup> *Id.* § 1.1206(b).

<sup>10</sup> See discussion *infra* Part VI.

<sup>11</sup> See 47 U.S.C. § 309(b).

<sup>12</sup> See Implementation of Interim Electronic Filing Procedures for Certain Commission Filings, *Order*, 16 FCC Rcd 21483 (2001); see also FCC Announces a New Filing Location for Paper Documents and a New Fax Number for

- **If filed by ECFS,**<sup>13</sup> 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](mailto: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](mailto:FCC@BCPIWEB.COM) or (202) 488-5563 (facsimile); (2) Erin McGrath, Mobility Division, Wireless Telecommunications Bureau, at [erin.mcgrath@fcc.gov](mailto: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](mailto:susan.singer@fcc.gov) or (202) 418-7447 (facsimile); (4) Linda Ray, Broadband Division, at [linda.ray@fcc.gov](mailto:linda.ray@fcc.gov) or (202) 418-8188 (facsimile); (5) David Krech, Policy Division, International Bureau, at [david.krech@fcc.gov](mailto:david.krech@fcc.gov) or (202) 418-2824 (facsimile); and (6) Neil Dellar, Office of General Counsel, at [neil.dellar@fcc.gov](mailto:neil.dellar@fcc.gov) or (202) 418-1234 (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](mailto: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 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 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

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General Correspondence, *Public Notice*, 16 FCC Rcd 22165 (2001); Reminder: Filing Locations for Paper Documents and Instructions for Mailing Electronic Media, *Public Notice*, 18 FCC Rcd 16705 (2003).

<sup>13</sup> See Electronic Filing of Documents in Rulemaking Proceedings, *Report and Order*, 13 FCC Rcd 11322 (1998).

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 by sending an e-mail to [access@fcc.gov](mailto:access@fcc.gov).

For further information, contact Erin McGrath, Mobility Division, Wireless Telecommunications Bureau, at (202) 418-2042.

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