



PUBLIC NOTICE

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

DA 11-244

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

Released: February 8, 2011

NEW CINGULAR WIRELESS PCS, LLC AND NEATT WIRELESS, LLC SEEK FCC CONSENT TO THE ASSIGNMENT OF BROADBAND PCS LICENSES

ULS File Nos. 0004352233

PLEADING CYCLE ESTABLISHED

Petitions To Deny Due: February 22, 2011
Oppositions Due: March 4, 2011
Replies Due: March 11, 2011

I. INTRODUCTION

New Cingular Wireless PCS, LLC (“New Cingular”) and NEATT Wireless, LLC (“NEATT”) (collectively, “the Applicants”) have filed an application pursuant to Section 310(d) of the Communications Act of 1934, as amended,¹ seeking to assign thirteen broadband PCS licenses from NEATT to New Cingular. New Cingular is an indirect, wholly-owned subsidiary of AT&T Inc. (“AT&T”).

The Applicants state that the proposed transaction will create several public interest benefits, including allowing AT&T to increase its system capacity to enhance existing services and facilitate the provision of additional products and services to the public. Specifically, the additional spectrum will, according to the Applicants, facilitate the provision of additional products and services to the public in these markets as well as the continued deployment of GSM/EDGE and HSDPA/UMTS technologies.

Much of the spectrum involved in the proposed assignment of licenses from NEATT to New Cingular was among the assets that AT&T was required to divest as a condition of the Cingular-AT&T Wireless merger.² In 2005, the Commission permitted AT&T to reacquire the customer contracts that had originally been divested.³ At the same time, the Commission stated that “[w]e expect that these licenses and assets will not be acquired by the primary incumbents in the Arkansas Markets, but rather that they will be made available to enable entry or expanded service by another provider.”⁴ The Applicants assert that the *Cingular-AT&T Wireless Order* is not a bar to Commission grant of the proposed assignment of

¹ 47 U.S.C. § 310(d).

² See Applications of AT&T Wireless Services, Inc. and Cingular Wireless Corp. For Consent to Transfer Control of Licenses and Authorizations, *Memorandum Opinion and Order*, 19 FCC Rcd 21522, 21620 ¶ 254 (2004) (“*Cingular-AT&T Wireless Order*”).

³ Applications of AT&T Wireless Services and Cingular Wireless Corporation, Emergency Joint Petition of NEATT Wireless, LLC and Cingular Wireless LLC for Partial Waiver to Transfer Previously Divested Customer Base to Prevent Loss of Service, *Order*, FCC 05-208, at ¶ 1 (rel. Dec. 9, 2005) (“*Customer Transfer Order*”).

⁴ *Id.* at n.34.

licenses. They also assert that the *Customer Transfer Order* does not serve as a barrier to Commission approval of the proposed transaction. The Applicants state that the Commission should consent to the assignment of the licenses from NEATT to New Cingular because NEATT could not find an alternative buyer for this spectrum other than a primary incumbent. We seek comment on the effect of these *Orders* and the Commission's statements in the *Customer Transfer Order* on the proposed transaction between NEATT Wireless and New Cingular.

II. SECTION 310(d) APPLICATION

The application for consent to the full assignment of the licenses from NEATT to New Cingular has been assigned the following file number:

<u>File No.</u>	<u>Licensee/Assignor</u>	<u>Assignee</u>	<u>Lead Call Sign</u>
0004352233	NEATT Wireless, LLC	New Cingular Wireless PCS, LLC	KNLG319

III. EX PARTE STATUS OF THIS PROCEEDING

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

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.⁷ More than a one- or two-sentence description of the views and arguments presented is generally required.⁸ Other rules pertaining to oral and written presentations are set forth in Section 1.1206(b) as well.⁹

IV. GENERAL INFORMATION

The assignment application referenced herein has 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.

Interested parties must file petitions to deny no later than February 22, 2011. 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 4, 2011. Replies to such pleadings must be filed no later than March 11, 2011. All filings concerning matters referenced in this Public Notice should refer to ULS File No. 0004352233.

⁵ 47 C.F.R. § 1.1200(a).

⁶ *Id.* § 1.1206.

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

⁸ See 47 C.F.R. § 1.1206(b)(2).

⁹ *Id.* § 1.1206(b).

Under the Commission's current procedures for the submission of filings and other documents,¹⁰ submissions in this matter may be filed electronically (*i.e.*, through the Commission's Universal Licensing System ("ULS")) or by hand delivery to the Commission.

- **If filed by ULS**, pleadings may be filed via:
<https://wireless2.fcc.gov/UlsEntry/pleadings/pleadingsType.jsp>.
- **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. All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. 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, Express, 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) Kathy Harris, Mobility Division, Wireless Telecommunications Bureau, at kathy.harris@fcc.gov or (202) 418-7447 (facsimile); (3) Kate Matraves, Spectrum and Competition Policy Division, Wireless Telecommunications Bureau, at catherine.matraves@fcc.gov or (202) 418-7447 (facsimile); and (4) Jim Bird, Office of General Counsel, at jim.bird@fcc.gov or (202) 418-1234 (facsimile).

Copies of the application 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 application 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 application is also available electronically through ULS, which may be accessed on the Commission's Internet website. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice) or 202-418-0432 (TTY). Contact the FCC to request reasonable accommodations for filing comments (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov; phone: 202-418-0530 or TTY: 202-418-0432.

For further information, contact Kathy Harris, Mobility Division, Wireless Telecommunications Bureau, at (202) 418-0609, or Kate Matraves, Spectrum and Competition Policy Division, Wireless Telecommunications Bureau, at (202) 418-7878.

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¹⁰ See FCC Announces Change in Filing Location for Paper Documents, *Public Notice*, 24 FCC Rcd 14312 (2009).