



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
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WASHINGTON, D.C. 20554

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DA 12-1605
Released: October 9, 2012

AT&T, T-MOBILE, AND COOK INLET SEEK FCC CONSENT TO THE ASSIGNMENT OF PCS LICENSES AND AN AWS-1 LICENSE

**ULS File Nos. 0005339993, 0005340212, 0005340222, 0005340513, 0005340585, 0005340649,
0005342506, 0005342514, 0005342520, 0005342527, 0005342528, 0005342676, 0005342680, and
0005342696**

PLEADING CYCLE ESTABLISHED

Petitions to Deny Due: October 23, 2012
Oppositions Due: November 2, 2012
Replies Due: November 9, 2012

I. INTRODUCTION

AT&T, Inc., by its subsidiaries AT&T Mobility Spectrum LLC, New Cingular Wireless PCS, LLC, and Florida RSA No. 2B (Indian River) Limited Partnership (collectively, “AT&T”),¹ T-Mobile USA, Inc., by its subsidiaries T-Mobile License LLC, T-Mobile Puerto Rico LLC, SunCom Wireless License Company, LLC, and Powertel Memphis Licenses, Inc. (collectively, “T-Mobile”),² and Cook Inlet/VIS GSM VII PCS, LLC (“Cook Inlet”)³ (collectively, AT&T, T-Mobile, and Cook Inlet comprise the “Applicants”) have filed applications (“Applications”) pursuant to Section 310(d) of the Communications Act of 1934, as amended,⁴ seeking consent to assign to each other a number of Personal Communications Service (“PCS”) licenses and an Advanced Wireless Service (“AWS-1”) license.

The Applicants⁵ describe the proposed transaction as including license exchanges that will, in some markets, result in larger blocks of contiguous spectrum and/or the alignment of spectrum blocks

¹ AT&T Mobility Spectrum LLC and New Cingular Wireless PCS, LLC are both wholly-owned subsidiaries of AT&T, Inc. AT&T, Inc. controls and holds an 86.3 percent partnership interest in Florida RSA No. 2B (Indian River) Limited Partnership.

² T-Mobile License LLC, T-Mobile Puerto Rico LLC, SunCom Wireless License Company, LLC, and Powertel Memphis Licenses, Inc. all are wholly-owned subsidiaries of T-Mobile USA, Inc.

³ Cook Inlet is ultimately controlled by Cook Inlet Region, Inc., an Alaska Native Corporation. T-Mobile holds an approximate 66 percent indirect ownership interest in Cook Inlet.

⁴ 47 U.S.C. § 310(d).

⁵ According to the Applications, foreign entities and persons, through Deutsche Telekom AG (“DT”), hold 100 percent of the attributable ownership interests in T-Mobile USA. The Applicants state that the Commission has previously authorized, pursuant to Section 310(b)(4) of the Communications Act, up to 100 percent indirect foreign investment in T-Mobile USA and its licensee subsidiaries (including T-Mobile) by DT and its German shareholders,

held in adjacent markets, and in other markets, augment the spectrum holdings of the proposed assignee. The Applicants further state that the assignments therefore will allow the assignees to make more efficient use of the spectrum and offer improved services to the public across the country.

Preliminary review of the applications indicates that the proposed transaction would result in the assignment and/or exchange of PCS and AWS-1 spectrum in 55 Cellular Market Areas (“CMAs”) in 17 states. Specifically, AT&T would acquire and/or receive in an exchange 5 to 20 megahertz of PCS spectrum in 54 CMAs. T-Mobile would acquire and/or receive in an exchange 10 to 20 megahertz of PCS spectrum in 43 CMAs. Our preliminary review further indicates that in 35 CMAs, AT&T and T-Mobile would exchange equal amounts of PCS spectrum; in 12 CMAs, AT&T would gain 10 megahertz of PCS spectrum; and in 8 CMAs, T-Mobile would gain 5 to 10 megahertz of PCS spectrum as a result of the proposed transaction. Finally, T-Mobile would also acquire 10 megahertz of AWS-1 spectrum in 1 CMA (CMA 109 – Spokane, WA).

II. SECTION 310(d) APPLICATIONS

The following applications for consent to the assignment or transfer of PCS and AWS licenses have been assigned the following file numbers:

<u>File No.</u>	<u>Licensee/Assignor</u>	<u>Assignee</u>	<u>Lead Call Sign</u>
0005339993 ⁶	T-Mobile License LLC	New Cingular Wireless PCS, LLC	KNLF482
0005340212	T-Mobile License LLC	New Cingular Wireless PCS, LLC	KNLF480
0005340222	T-Mobile License LLC	Florida RSA No. 2B (Indian River) Limited Partnership	KNLF480
0005340513	SunCom Wireless License Company, LLC	New Cingular Wireless PCS, LLC	WPOI205
0005340585	T-Mobile Puerto Rico LLC	New Cingular Wireless PCS, LLC	WQBN424
0005340649	Powertel Memphis Licenses, Inc.	New Cingular Wireless PCS, LLC	KNLG925
0005342506	New Cingular Wireless PCS, LLC	T-Mobile License LLC	KNLG404
0005342514	New Cingular Wireless PCS, LLC	T-Mobile License LLC	KNLG554
0005342520	New Cingular Wireless PCS, LLC	Cook Inlet/VS GSM VII PCS, LLC	KNLG459
0005342527	New Cingular Wireless PCS, LLC	Powertel Memphis Licenses, Inc.	WPOK615
0005342528	New Cingular Wireless PCS, LLC	Powertel Memphis Licenses, Inc.	KNLG230

including interests held by the German government through its investment in DT. *See* Applications, Exhibit 1, Description of Transaction and Public Interest Statement (“Public Interest Statement”) at 9-10 (citing *VoiceStream-DT Order*, 16 FCC Rcd 9779 (2001)). The foreign ownership ruling issued in the *VoiceStream-DT Order* was extended in 2006 to cover licenses in the Advanced Wireless Services. *See* Public Notice, International Authorizations Granted, 21 FCC Rcd 14062 (IB rel. Nov. 30, 2006). T-Mobile requests that the Commission condition its grant of the assignment applications to T-Mobile on compliance with the provisions of the National Security Agreement (NSA) entered into on January 12, 2001, as amended, between DT and the Department of Justice, the Federal Bureau of Investigation and the Department of Homeland Security, which is appended to the *VoiceStream-DT Order*, 16 FCC Rcd 9779. *See* Public Interest Statement at 11-12. *See also T-Mobile-Suncom Order*, 23 FCC Rcd 2515 (2008) (appending the NSA amendment).

⁶ The Applicants have designated this application as the lead application.

<u>File No.</u>	<u>Licensee/Assignor</u>	<u>Assignee</u>	<u>Lead Call Sign</u>
0005342676	Florida RSA No. 2B (Indian River) Limited Partnership	T-Mobile License LLC	WQFU957
0005342680	AT&T Mobility Spectrum LLC	T-Mobile License LLC	WQGA788
0005342696	Cook Inlet/VS GSM VII PCS, LLC	New Cingular Wireless PCS, LLC	WQCX681

III. *EX PARTE* STATUS OF THIS PROCEEDING

Pursuant to Section 1.1200(a) of the Commission's rules,⁷ 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.⁸

Parties making oral *ex parte* presentations are directed to the Commission's revised *ex parte* rules. Parties are reminded that memoranda summarizing the presentation must contain the presentation's substance and not merely list the subjects discussed.⁹ More than a one- or two-sentence description of the views and arguments presented is generally required.¹⁰ Other rules pertaining to oral and written presentations are set forth in Section 1.1206(b) as well.¹¹

IV. GENERAL INFORMATION

The assignment applications 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.

Interested parties must file petitions to deny no later than **October 23, 2012**. 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 **November 2, 2012**. Replies to such pleadings must be filed no later than **November 9, 2012**. All filings concerning matters referenced in this Public Notice should refer to ULS File Nos. 0005339993 (lead), 0005340212, 0005340222, 0005340513, 0005340585, 0005340649, 0005342506, 0005342514, 0005342520, 0005342527, 0005342528, 0005342676, 0005342680, and/or 0005342696 as appropriate.

To allow the Commission to consider fully all substantive issues regarding the Applications in as timely and efficient a manner as possible, petitioners and commenters should raise all issues in their initial filings. New issues may not be raised in responses or replies.¹² A party or interested

⁷ 47 C.F.R. § 1.1200(a).

⁸ 47 C.F.R. § 1.1206.

⁹ See 47 C.F.R. § 1.1206(b)(1).

¹⁰ See *id.*

¹¹ See 47 C.F.R. § 1.1206(b).

¹² See 47 C.F.R. § 1.45(c).

person seeking to raise a new issue after the pleading cycle has closed must show good cause why it was not possible for it to have raised the issue previously. Submissions after the pleading cycle has closed that seek to raise new issues based on new facts or newly discovered facts should be filed within 15 days after such facts are discovered. Absent such a showing of good cause, any issues not timely raised may be disregarded by the Commission.

Under the Commission's current procedures for the submission of filings and other documents,¹³ submissions in this matter may be filed electronically 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, D.C. 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) Linda Ray, Broadband Division, Wireless Telecommunications Bureau, at linda.ray@fcc.gov or (202) 418-7247 (facsimile); (4) Kate Matraves, Spectrum and Competition Policy Division, Wireless Telecommunications Bureau, at catherine.matraves@fcc.gov or (202) 418-7447 (facsimile); and (5) Jim Bird, Office of General Counsel, at TransactionTeam@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 email 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 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 email: FCC504@fcc.gov; phone: (202) 418-0530 or TTY: (202) 418-0432.

¹³ See FCC Announces Change in Filing Location for Paper Documents, *Public Notice*, 24 FCC Red 14312 (2009).

For further information, contact Kathy Harris, Mobility Division, Wireless Telecommunications Bureau, at (202) 418-0609, or Kate Mataves, Spectrum and Competition Policy Division, Wireless Telecommunications Bureau, at (202) 391-6272.

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