



PUBLIC NOTICE

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

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

DA 15-1211
Released: October 23, 2015

**AT&T MOBILITY SPECTRUM LLC, TAMPNET INC., TAMPNET LICENSEE LLC,
BROADPOINT LICENSE CO., LLC, AND BROADPOINT WIRELESS LICENSE CO., LLC
SEEK FCC GRANT OF ASSIGNMENT AND LONG-TERM *DE FACTO* TRANSFER
SPECTRUM LEASING APPLICATIONS INVOLVING FOUR CELLULAR, TWO ADVANCED
WIRELESS SERVICES, AND SATELLITE EARTH STATION LICENSES, AN
INTERNATIONAL SECTION 214 AUTHORIZATION, AND A FOREIGN OWNERSHIP
DECLARATORY RULING**

WT Docket No. 15-255

PLEADING CYCLE ESTABLISHED

Petitions To Deny Due: November 23, 2015
Oppositions Due: December 3, 2015
Replies Due: December 10, 2015

I. INTRODUCTION

AT&T Mobility Spectrum LLC, an indirect wholly-owned subsidiary of AT&T Inc. (together with AT&T Mobility Spectrum LLC, “AT&T”), Tampnet Licensee LLC, a wholly-owned subsidiary of Tampnet Inc. (together with Tampnet Licensee LCC, “Tampnet”), Broadpoint License Co., LLC, and Broadpoint Wireless License Co., LLC (together with Broadpoint License Co., LLC, “Broadpoint,” and together with AT&T and Tampnet, the “Applicants”) have filed applications pursuant to sections 214(a) and 310(d) of the Communications Act of 1934, as amended (the “Act”),¹ seeking approval of a number of license assignments and long-term *de facto* transfer spectrum leases, as well as issuance of an international section 214 authorization to Tampnet. The subject licenses cover the Gulf of Mexico.²

¹ 47 U.S.C. §§ 214(a), 310(d).

² The Gulf of Mexico Service Area for cellular service is defined as the water area of the Gulf of Mexico bounded on the west, north, and east by the “coastline,” which in turn is defined as “the line of ordinary low water along that portion of the coast which is in direct contact with the open sea, and the line marking the seaward limit of inland waters.” 47 C.F.R. § 22.99. The Gulf of Mexico Service Area has been divided into two areas for licensing purposes. These two areas are the “Gulf of Mexico Exclusive Zone,” which essentially is defined as the Gulf of Mexico Service Area, except for the Gulf of Mexico Coastal Zone. 47 C.F.R. § 22.950(a)(1). The “Gulf of Mexico Coastal Zone” is the geographical area in the Gulf of Mexico Service Area extending twelve nautical miles from the coastlines of Florida and Alabama into the Gulf of Mexico Service Area. 47 C.F.R. § 22.950(a)(2). As a practical matter, coverage in the Gulf of Mexico Coastal Zone is currently provided by land-based cellular licensees.

Tampnet also has filed a petition for declaratory ruling to permit foreign ownership of Tampnet Licensee LLC to exceed the 25 percent benchmark in section 310(b)(4) of the Act.³

Broadpoint currently holds four cellular licenses that, after a previous partition, cover the entirety of the Gulf of Mexico Exclusive Zone. Broadpoint proposes to assign to AT&T two of the cellular licenses that cover a previously partitioned area in the Gulf of Mexico Exclusive Zone just outside the Gulf of Mexico Coastal Zone.⁴ Tampnet would then lease from AT&T 25 megahertz of this spectrum.⁵ Broadpoint also would assign to Tampnet the remaining two cellular licenses that cover the remainder of the Gulf of Mexico Exclusive Zone,⁶ as well as two Advanced Wireless Services licenses encompassing the Gulf of Mexico and satellite earth station licenses primarily located in the Gulf of Mexico.⁷

The Applicants maintain that the proposed transaction would provide Tampnet with sufficient spectrum that would enable it to deploy offshore LTE in the Gulf of Mexico. The Applicants assert that the proposed transaction also would allow AT&T to provide better coverage for customers and eliminate burdens associated with frequency coordination and interference consents in the coastal areas around the Gulf of Mexico.

Our preliminary review indicates that Tampnet would be assigned or would lease 30 to 80 megahertz of spectrum in the Gulf of Mexico. Post-transaction, Tampnet would hold or lease 30 to 80 megahertz of spectrum in total, including up to 50 megahertz of below-1-GHz spectrum in the Gulf of Mexico.

Further, our review of the Applicants' spectrum exhibit indicates that AT&T would be assigned 50 megahertz of spectrum in the Gulf of Mexico. Post-transaction, AT&T would hold 108 megahertz of spectrum in total, and 68 megahertz of below-1-GHz spectrum in the Gulf of Mexico.

The *Mobile Spectrum Holdings Report and Order* requires that we treat any proposed increase in below-1-GHz spectrum holdings resulting in the acquiring entity holding approximately one-third or more of the suitable and available spectrum below 1 GHz as an "enhanced factor" in our case-by-case review.⁸ As a result of the instant transaction, Tampnet and AT&T each would hold more than 45 megahertz of the 134 megahertz of currently suitable and available below-1-GHz spectrum in the Gulf of Mexico.

³ 47 U.S.C. § 310(b)(4).

⁴ AT&T currently leases from Broadpoint 25 megahertz, or half, of the cellular spectrum in this area.

⁵ As proposed, Broadpoint would assign cellular licenses WQWD617 and WQWD618 to AT&T, which in turn would lease a portion under each call sign to Tampnet, pursuant to a long-term *de facto* transfer spectrum lease. As noted, these licenses exclude any area located within the Gulf of Mexico Coastal Zone. The effect of this assignment to AT&T and associated lease of part of the spectrum to Tampnet is that AT&T would become of the licensee of spectrum that it currently leases from Broadpoint, with no operational change in these areas from AT&T's perspective.

⁶ These cellular licenses are KNKA411 and KNKA412.

⁷ These licenses would be assigned, just prior to closing, to Broadpoint Newco, LLC ("Newco"), a wholly-owned subsidiary of Broadpoint. At closing, control of Newco would be transferred, and Newco would become a wholly-owned subsidiary of Tampnet.

⁸ See Policies Regarding Mobile Spectrum Holdings; Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, WT Docket No. 12-269, GN Docket No. 12-268, *Report and Order*, 29 FCC 6133, 6240 ¶¶ 286-88 (2014) ("*Mobile Spectrum Holdings Report and Order*"), *recon. denied, Order on Reconsideration*, 30 FCC Rcd 8635 (2015).

II. SECTION 310(d) APPLICATIONS

The applications for the assignment of licenses and long-term *de facto* transfer leasing arrangements have the following file numbers:

<u>File No.</u>	<u>Assignor or Lessor</u>	<u>Assignee or Lessee</u>	<u>Lead Call Sign</u>
0006888586 ⁹	Broadpoint License Co., LLC	AT&T Mobility Spectrum LLC	WQWD617
7035CLNL15	AT&T Mobility Spectrum LLC	Tampnet Licensee LLC	WQWD617
0006893367	Broadpoint Wireless License Co., LLC	Broadpoint Newco, LLC	KNKA411
SES-ASG-20150828-00555	Broadpoint License Co., LLC	Broadpoint Newco, LLC	E850118
SES-ASG-20150828-00565	Broadpoint License Co., LLC	Broadpoint Newco, LLC	E040350

III. SECTION 214 APPLICATION

The application for consent to the issuance of an international section 214 authorization has been assigned the following file number:

<u>File No.</u>	<u>Applicant</u>
ITC-214-20150901-00218	Tampnet Inc.

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

Tampnet Inc. (“Petitioner”) has filed a petition for declaratory ruling pursuant to section 310(b)(4) of the Act¹⁰ and section 1.990(a)(1) of the Commission’s rules,¹¹ requesting that the Commission issue a declaratory ruling permitting foreign ownership of Tampnet, Inc., as the controlling U.S.-organized parent of Tampnet Licensee LLC, to exceed the 25 percent benchmark in section 310(b)(4). Petitioner states that it is owned by a 50-50 joint venture of Brent Infrastructure I S.a.r.l. and Brent Infrastructure II SA, both of which are organized under the laws of Luxembourg. These companies are affiliated with EQT I and EQT II, comprised of a group of private equity funds based in Europe.

The petition for a declaratory ruling has been assigned the following file number:

<u>File No.</u>	<u>Petitioner</u>
ISP-PDR-20150507-00003	Tampnet Inc.

⁹ The Applicants have designated this application as the lead application.

¹⁰ 47 U.S.C. § 310(b)(4).

¹¹ 47 C.F.R. § 1.990(a)(1).

V. *EX PARTE* STATUS OF THIS PROCEEDING

Pursuant to section 1.1200(a) of the Commission's rules,¹² 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.¹³

Parties making oral *ex parte* presentations are directed to the Commission's *ex parte* rules. Parties are reminded that memoranda summarizing the presentation must contain the presentation's substance and not merely list the subjects discussed.¹⁴ More than a one- or two-sentence description of the views and arguments presented is generally required.¹⁵ Other rules pertaining to oral and written presentations are set forth in section 1.1206(b) as well.¹⁶

V. GENERAL INFORMATION

The assignment and long-term *de facto* transfer spectrum leasing 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 **November 23, 2015**. 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, 2015**. Replies to such pleadings must be filed no later than **December 10, 2015**. All filings concerning matters referenced in this Public Notice should refer to WT Docket No. 15-255.

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.¹⁷ A party or interested 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,¹⁸ submissions in this matter may be filed electronically through the Commission's Electronic Comment Filing System ("ECFS") or by hand delivery to the Commission.

¹² 47 C.F.R. § 1.1200(a).

¹³ 47 C.F.R. § 1.1206.

¹⁴ See 47 C.F.R. § 1.1206(b)(1).

¹⁵ See *id.*

¹⁶ 47 C.F.R. § 1.1206(b).

¹⁷ See 47 C.F.R. § 1.45(c).

¹⁸ See FCC Announces Change in Filing Location for Paper Documents, *Public Notice*, 24 FCC Rcd 14312 (2009).

- **To file electronically**,¹⁹ access ECFS via the Internet at <http://apps.fcc.gov/ecfs>. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket number.
- **To file by paper**, the original and one copy 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., S.W., 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 email 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) Scott Patrick, Mobility Division, Wireless Telecommunications Bureau, at scott.patrick@fcc.gov or (202) 418-2643 (facsimile); (2) Linda Ray, Broadband Division, Wireless Telecommunications Bureau, at linda.ray@fcc.gov or (202) 418-7247 (facsimile); (3) Kate Matraves, Competition and Infrastructure Policy Division, Wireless Telecommunications Bureau, at catherine.matraves@fcc.gov or (202) 418-2643 (facsimile); (4) David Krech, Policy Division, International Bureau, at david.krech@fcc.gov or (202) 418-2824 (facsimile); (5) Susan O'Connell, Policy Division, International Bureau, at susan.oconnell@fcc.gov or (202) 418-2824 (facsimile); (6) Clay DeCell, Satellite Division, International Bureau, at clay.decell@fcc.gov or (202) 418-0748 (facsimile); and (7) Jim Bird, Office of General Counsel, at TransactionTeam@fcc.gov or (202) 418-1234 (facsimile).

The applications and any associated documents are 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 also are available electronically through ULS (wireless applications) or IBFS (satellite earth station and international section 214 applications), both of 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 email 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.

For further information, contact Scott Patrick, Mobility Division, Wireless Telecommunications Bureau, at (202) 418-2853, or Kate Matraves, Competition and Infrastructure Policy Division, Wireless Telecommunications Bureau, at (202) 391-6272.

-FCC-

¹⁹ See Electronic Filing of Documents in Rulemaking Proceedings, GC Docket No. 97-113, *Report and Order*, 13 FCC Rcd 11322 (1998).