



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

DA 16-760

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AT&T MOBILITY SPECTRUM LLC AND FUEGO WIRELESS, LLC, SEEK FCC CONSENT TO THE ASSIGNMENT OF FOUR LOWER 700 MHZ LICENSES IN NEW MEXICO

WT Docket No. 16-159

PLEADING CYCLE ESTABLISHED

Petitions to Deny Due: July 26, 2016
Oppositions Due: August 2, 2016
Replies Due: August 9, 2016

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), and Fuego Wireless, LLC (Fuego, and together with AT&T, the Applicants), have filed an application pursuant to Section 310(d) of the Communications Act of 1934, as amended,¹ seeking the assignment of three Lower 700 MHz B Block licenses and a Lower 700 MHz C Block license from Fuego to AT&T. The subject licenses cover parts of New Mexico.

The Applicants maintain that the proposed transaction would provide AT&T with additional spectrum that would enable it to increase its system capacity to enhance existing services, better accommodate its overall growth, and facilitate the provision of additional products and services in four Cellular Market Areas (CMAs): CMA 285 (Las Cruces, NM), CMA 555 (New Mexico 3 – Catron), CMA 556 (New Mexico 4 – Santa Fe), and CMA 558 (New Mexico 6 – Lincoln). The Applicants assert that, as a result of this proposed transaction, AT&T would hold 24 megahertz of contiguous, paired Lower 700 MHz spectrum in all but one of the 19 counties involved in this transaction, where it would allow for a 10×10 megahertz LTE deployment.

Our preliminary review indicates that AT&T would be assigned 12 megahertz of Lower 700 MHz spectrum covering 19 counties in four CMAs in New Mexico. Post-transaction, AT&T would hold 100 to 175 megahertz of spectrum in total, including 18 to 55 megahertz of below-1-GHz spectrum, in these four CMAs.

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.² As a result of the instant transaction, AT&T would hold more than one-third, that is, more than

¹ 47 U.S.C. § 310(d).

² *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 Rcd 6133, 6240, paras. 286-88 (2014) (*Mobile Spectrum Holdings Report and Order*), recon. denied, Order on Reconsideration, 30 FCC Rcd 8635 (2015).

45 megahertz, of the 134 megahertz of currently suitable and available below-1-GHz spectrum in 18 of the 19 counties involved in this transaction.

II. SECTION 310(d) APPLICATION

The application for the assignment of licenses has the following file number:

<u>File No.</u>	<u>Licensee/Assignor</u>	<u>Assignee</u>	<u>Lead Call Sign</u>
0007156616	Fuego Wireless, LLC	AT&T Mobility Spectrum LLC	WPWV550

III. EX PARTE STATUS OF THIS PROCEEDING

Pursuant to Section 1.1200(a) of the Commission's rules,³ 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.⁴

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.⁵ More than a one- or two-sentence description of the views and arguments presented is generally required.⁶ Other rules pertaining to oral and written presentations are set forth in Section 1.1206(b) as well.⁷

IV. GENERAL INFORMATION

The assignment application 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 **July 26, 2016**. 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 **August 2, 2016**. Replies to such pleadings must be filed no later than **August 9, 2016**. All filings concerning matters referenced in this Public Notice should refer to WT Docket No. 16-159.

To allow the Commission to consider fully all substantive issues regarding the application 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.⁸ 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.

³ 47 C.F.R. § 1.1200(a).

⁴ 47 C.F.R. § 1.1206.

⁵ 47 C.F.R. § 1.1206(b)(1).

⁶ *Id.*

⁷ 47 C.F.R. § 1.1206(b).

⁸ 47 C.F.R. § 1.45(c).

Under the Commission's current procedures for the submission of filings and other documents,⁹ submissions in this matter may be filed electronically through the Commission's Electronic Comment Filing System (ECFS) or by hand delivery to the Commission.

- **To file electronically**,¹⁰ 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., 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, SW, Washington, DC 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) Betsy McIntyre, Competition and Infrastructure Policy Division, Wireless Telecommunications Bureau, at Elizabeth.mcintyre@fcc.gov or (202) 418-0787 (facsimile); and (3) Jim Bird, Office of General Counsel, at TransactionTeam@fcc.gov or (202) 418-1234 (facsimile).

The application 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, SW, Room CY-A257, Washington, DC 20554. The application also is 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 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 Betsy McIntyre, Competition and Infrastructure Policy Division, Wireless Telecommunications Bureau, at (202) 418-0668.

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⁹ *FCC Announces Change in Filing Location for Paper Documents*, Public Notice, 24 FCC Rcd 14312 (2009).

¹⁰ *Electronic Filing of Documents in Rulemaking Proceedings*, Report and Order, 13 FCC Rcd 11322 (1998).