



# PUBLIC NOTICE

Federal Communications Commission  
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Washington, D.C. 20554

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DA 17-329

Released: April 6, 2017

**NEW CINGULAR WIRELESS PCS, LLC, DYCOM HOLDING, INC., AND WILKES  
CELLULAR, INC., SEEK FCC CONSENT TO THE ASSIGNMENT OF A LOWER 700 MHZ C  
BLOCK LICENSE AND A CELLULAR LICENSE IN GEORGIA**

**WT Docket No. 17-82**

**PLEADING CYCLE ESTABLISHED**

**Petitions to Deny Due: April 27, 2017**  
**Oppositions Due: May 4, 2017**  
**Replies Due: May 11, 2017**

**I. INTRODUCTION**

New Cingular Wireless PCS, LLC, an indirect wholly-owned subsidiary of AT&T Inc. (together with New Cingular Wireless PCS, LLC, AT&T), together with Dycom Holding, Inc. (Dycom), and Wilkes Cellular, Inc.<sup>1</sup> (Wilkes) (together with Dycom and AT&T, the Applicants), have filed applications pursuant to Section 310(d) of the Communications Act of 1934, as amended,<sup>2</sup> seeking Commission consent to the assignment of a Lower 700 MHz C Block license from Dycom to AT&T and a cellular license from Wilkes to AT&T.<sup>3</sup> The subject licenses cover one local market in Georgia.

The Applicants maintain that acquiring the Lower 700 MHz spectrum 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 Cellular Market Area (CMA) 374 (Georgia 4 – Jasper). The Applicants assert that, as a result of this proposed transaction, AT&T would hold 24 megahertz of contiguous, paired Lower 700 MHz spectrum, which would allow for a 10×10 megahertz LTE deployment. Regarding the use of the cellular spectrum at issue, the Applicants contend that this proposed transaction would fill in gaps in its network, expanding and enhancing AT&T's cellular coverage over the entire CMA, and reducing inefficiencies at several county boundaries within the local market.

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<sup>1</sup> Wilkes Cellular, Inc., is a wholly-owned subsidiary of Dycom Holding, Inc. See Dycom Holding, Inc., FCC Ownership Disclosure Information for the Wireless Telecommunications Services, FCC Form 602, File No. 0006640909 (filed Jan. 30, 2015).

<sup>2</sup> 47 U.S.C. § 310(d).

<sup>3</sup> Dycom would assign its Lower 700 MHz license and Wilkes Cellular would assign its cellular license to Hope Acquisition Company LLC (Hope Acquisition). Hope Acquisition would initially be an LLC wholly-owned by Dycom. Immediately after this step, New Cingular would purchase all of the membership interests in Hope Acquisition from Dycom, resulting in Hope Acquisition becoming a wholly-owned subsidiary of New Cingular. In addition to the proposed assignment of these licenses, the parties seek authority to simultaneously consummate the transfer of control of Hope Acquisition to New Cingular.

Our preliminary review indicates that AT&T would be assigned 12 megahertz of Lower 700 MHz C Block spectrum covering all ten counties in Georgia 4 – Jasper. AT&T would also be assigned 25 megahertz of cellular spectrum in three of these ten counties in this CMA, where pre-transaction, AT&T does not hold cellular spectrum. Post-transaction, AT&T would hold 125 megahertz to 135 megahertz of spectrum in total, including 55 megahertz of below-1-GHz spectrum in this local market.

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.<sup>4</sup> As a result of the instant transaction, AT&T would hold more than one-third, that is, more than 45 megahertz, of the 134 megahertz of currently suitable and available below-1-GHz spectrum in Georgia 4 – Jasper.

## II. SECTION 310(d) APPLICATIONS

The applications for the assignment of licenses have the following file numbers:

| <u>Lead File No.</u>    | <u>Licensee/Assignor</u> | <u>Assignee</u>              | <u>Call Signs</u> |
|-------------------------|--------------------------|------------------------------|-------------------|
| 0007621190 <sup>5</sup> | Wilkes Cellular, Inc.    | Hope Acquisition Company LLC | KNKN874           |
| 0007621196              | Dycom Holding, Inc.      | Hope Acquisition Company LLC | WPWV275           |

## III. EX PARTE STATUS OF THIS PROCEEDING

Pursuant to Section 1.1200(a) of the Commission’s rules,<sup>6</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>7</sup>

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.<sup>8</sup> More than a one- or two-sentence description of the views and arguments presented is generally required.<sup>9</sup> Other rules pertaining to oral and written presentations are set forth in Section 1.1206(b) as well.<sup>10</sup>

## 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.

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<sup>4</sup> *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).

<sup>5</sup> This application has been designated the lead application by the applicants.

<sup>6</sup> 47 CFR § 1.1200(a).

<sup>7</sup> 47 CFR § 1.1206.

<sup>8</sup> 47 CFR § 1.1206(b)(1).

<sup>9</sup> *Id.*

<sup>10</sup> 47 CFR § 1.1206(b).

Interested parties must file petitions to deny no later than **April 27, 2017**. 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 **May 4, 2017**. Replies to such pleadings must be filed no later than **May 11, 2017**. All filings concerning matters referenced in this Public Notice should refer to WT Docket No. 17-82.

**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.<sup>11</sup> 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,<sup>12</sup> 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,**<sup>13</sup> 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) Kathy Harris, Mobility Division, Wireless Telecommunications Bureau, at [kathy.harris@fcc.gov](mailto:kathy.harris@fcc.gov) or (202) 418-2643 (facsimile); (2) Kate Matraves, Competition and Infrastructure Policy Division, Wireless Telecommunications Bureau, at [catherine.matraves@fcc.gov](mailto:catherine.matraves@fcc.gov) or (202) 418-2643 (facsimile); and (3) Jim Bird, Office of General Counsel, at [TransactionTeam@fcc.gov](mailto: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, SW, Room CY-A257, Washington, DC 20554. The applications also are 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,

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<sup>11</sup> 47 CFR § 1.45(c).

<sup>12</sup> *FCC Announces Change in Filing Location for Paper Documents*, Public Notice, 24 FCC Rcd 14312 (2009).

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

audio format), send an email to [fcc504@fcc.gov](mailto: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](mailto: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 Mataves, Competition and Infrastructure Policy Division, Wireless Telecommunications Bureau, at (202) 391-6272.

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