



PUBLIC NOTICE

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

DA 12-92

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Released: January 26, 2012

**T-MOBILE LICENSE LLC, AT&T MOBILITY SPECTRUM LLC, AND NEW CINGULAR
WIRELESS PCS, LLC
SEEK FCC CONSENT TO THE ASSIGNMENT OF AWS-1 LICENSES**

WT Docket No. 12-21

PLEADING CYCLE ESTABLISHED

Petitions to Deny Due: February 27, 2012
Oppositions Due: March 8, 2012
Replies Due: March 19, 2012

I. INTRODUCTION

T-Mobile License LLC (“T-Mobile License”),¹ AT&T Mobility Spectrum LLC (“AT&T Mobility”), and New Cingular Wireless PCS, LLC (“New Cingular Wireless”² and together with T-Mobile License and AT&T Mobility, the “Applicants”) have filed four applications (collectively, the “Applications”) pursuant to Section 310(d) of the Communications Act of 1934, as amended,³ seeking approval to assign AWS-1 spectrum licenses. The Applicants request consent to assign 13 AWS-1 licenses in full and partitioned portions of 23 AWS-1 licenses from AT&T Mobility to T-Mobile License.⁴ The Applicants also request consent to assign seven AWS-1 licenses in full and partitioned portions of four AWS-1 licenses from New Cingular Wireless to T-Mobile License.⁵

The Applicants explain that the proposed license assignments are part of the break-up provision of that certain Stock Purchase Agreement, dated as of March 20, 2011, between AT&T and DT for the

¹ T-Mobile License LLC is a wholly-owned subsidiary of T-Mobile USA, Inc. (“T-Mobile USA”). T-Mobile USA in turn is a wholly-owned subsidiary of Deutsche Telekom AG (“DT”). Through DT, foreign entities and persons hold 100 percent of the attributable ownership interests in T-Mobile USA. The Applicants state that DT’s interest in T-Mobile USA and its qualifications as a foreign corporation to hold indirect ownership interests in common carrier licenses, including licenses in the Advanced Wireless Services (“AWS”), have been previously authorized by the FCC. See T-Mobile License-AT&T Mobility Application, File No. 0005005682, Exhibit 1, Description of Transaction and Public Interest Statement (“Public Interest Statement”), at 2; Exhibit 2, Foreign Ownership Statement. The Applicants designated File No. 0005005682 as the lead application.

² AT&T Mobility and New Cingular Wireless are subsidiaries of AT&T Inc. (collectively with its subsidiaries and affiliates, “AT&T”). See File No. 0005005682, Public Interest Statement at 1.

³ 47 U.S.C. § 310(d).

⁴ See File Nos. 0005005685 and 0005005682.

⁵ See File Nos. 0005005687 and 0005016840.

sale of T-Mobile USA from DT to AT&T. That agreement has now been terminated, triggering the requirement for AT&T to assign in full or in part certain AWS-1 licenses held by two of its subsidiaries to T-Mobile License. The Applicants state that T-Mobile USA is not acquiring customers, facilities, or any other assets through the proposed spectrum license assignments.⁶ In addition, the Applicants state that no international Section 214 authorizations will be assigned through the proposed transaction.⁷

The Applicants assert that the proposed license assignments will serve the public interest by allowing T-Mobile USA to acquire spectrum to enable it to better address the growing demands of consumers for wireless data and content.⁸ The Applicants also assert that the proposed license assignments raise no competitive concerns. They note that AT&T will retain spectrum, and continue to serve customers, in each of the affected markets and therefore conclude that the proposed transaction will in no way reduce the number of wireless competitors or choices available to consumers in any market.⁹

Preliminary review of the Applications indicates that the proposed assignment of licenses would result in T-Mobile USA acquiring 10-20 megahertz of spectrum in 128 CMAs covering 121 million people (or approximately 39 percent of the U.S. population).

II. SECTION 310(d) APPLICATIONS

The following applications for consent to the assignment of licenses have been assigned the following file numbers:

| <u>File No.</u> | <u>Licensee</u> | <u>Assignee</u> | <u>Lead Call Sign</u> |
|-----------------|--------------------------------|----------------------|-----------------------|
| 0005005682 | AT&T Mobility Spectrum LLC | T-Mobile License LLC | WQGA728 |
| 0005005685 | AT&T Mobility Spectrum LLC | T-Mobile License LLC | WQGA743 |
| 0005005687 | New Cingular Wireless PCS, LLC | T-Mobile License LLC | WQGA719 |
| 0005016840 | New Cingular Wireless PCS, LLC | T-Mobile License LLC | WQGA864 |

III. EX PARTE STATUS OF THIS PROCEEDING

Pursuant to Section 1.1200(a) of the Commission's rules,¹⁰ the Commission may adopt modified or more stringent *ex parte* procedures in particular proceedings if the public interest so requires.¹¹ We

⁶ See File No. 0005005682, Public Interest Statement at 1.

⁷ *Id.*

⁸ See *id.* at 4-6.

⁹ See *id.* at 4.

¹⁰ 47 C.F.R. § 1.1200(a).

¹¹ On February 1, 2011, the Commission adopted a Report and Order amending and revising the Commission's rules on *ex parte* presentations. Amendment of the Commission's *Ex Parte* Rules and Other Procedural Rules, GC Docket No. 10-43, *Report and Order and Further Notice of Proposed Rulemaking*, FCC 11-11 (rel. Feb. 2, 2011). The revised rules were published in the Federal Register on May 2, 2011, and went into effect June 1, 2011. See 76 Fed. Reg. 24376 (May 2, 2011).

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.¹²

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.¹³ More than a one- or two-sentence description of the views and arguments presented is generally required.¹⁴ Other rules pertaining to oral and written presentations are set forth in Section 1.1206(b) as well.¹⁵

IV. GENERAL INFORMATION

The assignment applications referenced herein 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 February 27, 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 March 8, 2012. Replies to such pleadings must be filed no later than March 19, 2012. All filings concerning matters referenced in this Public Notice should refer to WT Docket No. 12-21 and ULS File Nos. 0005005682, 0005005685, 0005005687, and/or 0005016840, 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.¹⁶ 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,¹⁷ submissions in this matter may be filed electronically (*i.e.*, through ECFS) or by hand delivery to the Commission.

¹² 47 C.F.R. § 1.1206.

¹³ See 47 C.F.R. § 1.1206(b)(1).

¹⁴ See *id.*

¹⁵ *Id.* § 1.1206(b).

¹⁶ See 47 C.F.R. §1.45(c).

¹⁷ See FCC Announces Change in Filing Location for Paper Documents, *Public Notice*, 24 FCC Rcd 14312 (2009).

- **If filed by ECFS,**¹⁸ comments shall be sent as an electronic file via the Internet to <http://fjallfoss.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. Parties may also submit an electronic comment by Internet e-mail.
- **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 Street, 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 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) David Hu, Broadband Division, Wireless Telecommunications Bureau ("WTB"), at david.hu@fcc.gov or (202) 418-7247 (facsimile); (3) Joel Taubenblatt, Spectrum and Competition Policy Division, WTB, at joel.taubenblatt@fcc.gov or (202) 418-7447 (facsimile); and (4) Jim Bird, Office of General Counsel, at TransactionTeam@fcc.gov or (202) 418-1234 (facsimile). Any submission that is e-mailed to Best Copy and Printing, David Hu, Joel Taubenblatt, and Jim Bird should include in the subject line of the e-mail: (1) WT Docket No. 12-21; (2) the name of the submitting party; and (3) a brief description or title identifying the type of document being submitted (e.g., WT Docket No. 12-21, [name of submitting party], Notice of *Ex Parte* Communication).

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 ECFS, which may be accessed on the Commission's Internet website at <http://www.fcc.gov>. In addition, the application 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 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.

¹⁸ See Electronic Filing of Documents in Rulemaking Proceedings, GC Docket No. 97-113, *Report and Order*, 13 FCC Rcd 11322 (1998). The revised rules were published in the Federal Register on May 1, 1998, and went into effect June 30, 1998. See 63 Fed. Reg. 24121 (May 1, 1998).

For further information, contact David Hu, Broadband Division, Wireless Telecommunications Bureau, at (202) 418-7120, or Joel Taubenblatt, Spectrum and Competition Policy Division, Wireless Telecommunications Bureau, at (202) 418-1513.

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