

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

OCT 13 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Cook Inlet/VS GSM IV PCS, LLC)
and)
Cook Inlet/VS GSM V PCS, LLC)
)
Petition for Determination of the Public Interest)
Under Section 310(b)(4) of the Communications)
Act of 1934, As Amended)

IB Docket No. 00-187

To: The Commission

**PETITION FOR DECLARATORY RULING UNDER SECTION 310(b)(4) OF THE
COMMUNICATIONS ACT OF 1934, AS AMENDED**

Cook Inlet/VS GSM IV PCS, LLC ("CIVS IV") and Cook Inlet/VS GSM V PCS, LLC ("CIVS V), by their attorneys and pursuant to Section 310(b)(4) of the Communications Act of 1934, as amended (the "Act"), 47 U.S.C. § 310(b)(4), hereby respectfully petition the Commission to issue a declaratory ruling to allow indirect foreign ownership in CIVS IV and CIVS V resulting from the consummation of the transaction between VoiceStream Wireless Corporation ("VoiceStream") and Deutsche Telekom AG ("DT")¹ in excess of the twenty-five percent statutory benchmark. As described more fully below, the transaction and the resulting indirect foreign ownership in CIVS IV and CIVS V would serve the public interest.

¹ Applications related to the VoiceStream-DT transaction were filed with the Commission on September 18, 2000. See *VoiceStream Wireless Corporation, Powertel, Inc. and Deutsche Telekom AG Seek FCC Consent to Transfer Control of Licenses and Authorizations and Request Declaratory Ruling Allowing Indirect Foreign Ownership*, IB Docket No. 00-187, Public Notice (Oct. 11, 2000).

CIVS IV and CIVS V each are Delaware limited liability companies organized to hold and operate personal communications services ("PCS") licenses in the C and F blocks acquired either through participation in future Commission auctions for such licenses or through post-auction transactions. CIVS IV is a wholly owned, direct subsidiary of Cook Inlet/VS GSM IV PCS Holdings, LLC ("CIVS IV Holdings"); CIVS V is a wholly owned, direct subsidiary of Cook Inlet/VS GSM V PCS Holdings, LLC ("CIVS V Holdings"). Each of CIVS IV Holdings and CIVS V Holdings has two members. Cook Inlet Mobile Corporation ("CIMC"), holds a 50.1 percent membership interest in and is the sole Manager of CIVS IV Holdings; Cook Inlet Wireless, Inc. ("CIWC"), holds a 50.1 percent membership interest in and is the sole Manager of CIVS V Holdings. CIMC and CIWC each are wholly owned, direct subsidiaries of Cook Inlet Region, Inc. ("CIRI"), an Alaska Native Regional Corporation organized pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. §§ 1601 *et seq.* Omnipoint Investment, LLC, a wholly owned subsidiary of VoiceStream, holds a 49.9 percent membership interest in each of CIVS IV Holdings and CIVS V Holdings. The Commission has authorized up to 30.6 percent investment in VoiceStream by HTPCSL, a British Virgin Islands corporation and a wholly owned subsidiary of Hutchison Whampoa Limited ("Hutchison"), a Hong Kong limited liability holding company.² The Commission separately has authorized up to an additional 25 percent investment in VoiceStream by non-Hong Kong, non-United States citizens.³ Currently, less than fifty

² See *VoiceStream Wireless Corporation, Omnipoint Corporation, Cook Inlet/VS GSM II PCS, LLC, and Cook Inlet/VS GSM III PCS, LLC Seek FCC Consent for Transfer of Control and Assignment of Licenses and Authorizations*, Memorandum Opinion and Order, 14 FCC Rcd 13,421 (August 16, 1999).

³ See *Applications of Aerial Communications, Inc., Transferor, and VoiceStream Wireless Holding Corp., Transferee*, Memorandum Opinion and Order, WT Docket No. 00-3, DA 00-730 (rel. Mar. 31, 2000).

percent of the shares of VoiceStream are owned by foreign entities; therefore, the resulting attributable foreign ownership interest in each of the CIVS Entities is less than twenty five percent, which is within the statutory benchmark set forth in Section 310(b)(4).

On September 18, 2000, VoiceStream and DT filed applications seeking Commission consent to the transfer of control of VoiceStream from its current shareholders to DT.⁴ Upon consummation of the transaction contemplated by these applications, and subject to the Commission's approval, VoiceStream would become wholly owned and controlled by DT, a corporation organized under the laws of the Federal Republic of Germany. The resulting attributable foreign ownership in each of CIVS IV and CIVS V would be 49.9 percent. Section 310(b)(4) of the Act permits up to twenty five percent indirect foreign ownership in a common carrier radio licensee, and gives the Commission the discretion to allow indirect foreign ownership in excess of twenty five percent where a higher level of foreign ownership would be in the public interest. By this petition, CIVS IV and CIVS V each hereby request a ruling by the Commission that this level of foreign ownership is in the public interest and allowing this level of foreign ownership in excess of the statutory (25%) benchmark.

As explained in detail in the applications filed by DT and VoiceStream, DT's indirect foreign ownership of VoiceStream would not violate or frustrate any statutory provision or Commission rule and would yield substantial public interest and procompetitive benefits. Specifically, according to the applications, DT will provide VoiceStream with the resources necessary to accelerate the construction of existing licenses and acquire additional licenses

⁴ See *VoiceStream Wireless Corporation, Powertel, Inc. and Deutsche Telekom AG Seek FCC Consent to Transfer Control of Licenses and Authorizations and Request Declaratory Ruling Allowing Indirect Foreign Ownership*, IB Docket No. 00-187, Public Notice (Oct. 11, 2000).

necessary to expand its nearly nationwide GSM footprint. This construction and expansion will increase competition in the wireless telecommunications industry, resulting in lower prices, increased choice and improved quality for consumers.

DT's indirect foreign ownership of each of CIVS IV and CIVS V will service the public interest for many of the same reasons. While in each case CIRI will remain in ultimate control of the operations of the licenses held by CIVS IV and CIVS V, each of CIVS IV and CIVS V will benefit from the additional resources provided from DT through VoiceStream. With the availability of these resources, the customers of the PCS systems licensed to CIVS IV and CIVS V will benefit from the same wider area coverage, improved quality service and lower prices that current VoiceStream customers will enjoy. Finally, all wireless customers will benefit from the increased competition and choice provided by a PCS provider using GSM technology and operating a nearly national footprint.

Thus, for the reasons articulated in the applications filed by VoiceStream and DT, and for the reasons stated herein, CIVS IV and CIVS V each respectfully requests that, in the event the Commission consents to the transaction contemplated by VoiceStream and DT, the Commission also issue a declaratory ruling confirming that DT's 49.9 percent indirect foreign ownership interest in CIVS IV and CIVS V is permissible under Section 310(b)(4) of the Act because it is in the public interest.

Respectfully submitted,

Cook Inlet/VS GSM IV PCS, LLC
Cook Inlet/VS GSM V PCS, LLC

By: 
Jonathan D. Blake
Christine E. Enemark
Covington & Burling
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2401
(202) 662-6110

Their Attorneys

Dated: October 13, 2000