

DESCRIPTION OF TRANSACTION AND PUBLIC INTEREST STATEMENT

I. Description of Transaction

Vulcan Spectrum LLC (“Vulcan”), the licensee of 24 Lower 700 MHz C Block licenses in Oregon and Washington (the “Licenses”) described in Exhibit 2, and AT&T Mobility II LLC (“AT&T Mobility”), an indirect wholly-owned subsidiary of AT&T Inc. (collectively with AT&T Mobility, “AT&T”), hereby seek Commission consent to the assignment of the Licenses to AT&T Mobility.

As stated below, this transaction will create several public interest benefits and, as described in more detail below and in Exhibit 3, no spectrum aggregation concerns are raised by the transaction. Accordingly, the Parties respectfully submit that Commission approval of the proposed transaction will serve the public interest, convenience and necessity and request that the Commission expeditiously grant this application.

II. Description of the Parties

AT&T is a provider of wireless, high-speed Internet access, local and long distance voice, video, data and directory publishing and advertising services. Vulcan is a limited liability company majority owned and controlled by Paul G. Allen. In addition to the Licenses that are the subject of this transaction, Vulcan holds two Lower 700 MHz A Block licenses in the Seattle-Tacoma-Bremerton, WA and Portland-Salem, OR-WA Economic Areas that authorize Vulcan to provide service to approximately 60% of the counties that comprise the markets for which the Licenses have been issued.

III. Commission Approval of the Proposed Transaction is in the Public Interest

Under Section 310(d) of the Communications Act of 1934, as amended, a license may be transferred where the Commission finds “that the public interest, convenience and necessity will be served thereby.”¹ This standard involves a balancing process that weighs the potential public

¹ 47 U.S.C. § 310(d); see *Applications of AT&T Inc. and Dobson Communications Corporation For Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 22 FCC Rcd 20295, at ¶ 2 (2007) (“AT&T-Dobson Order”); *Applications of Midwest Wireless Holdings, L.L.C. and Alltel Communications, Inc. For Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 21 FCC Rcd 11526, 11535 (2006) (“Alltel-Midwest Order”); *Applications of Nextel Communications, Inc. and Sprint Corporation For Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 20 FCC Rcd 13967, 13976 (2005) (“Sprint-Nextel Order”); *Applications of Western Wireless Corporation and Alltel Corporation For Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 20 FCC Rcd 13053, 13062 (2005) (“Alltel-Western Order”); *Applications of AT&T Wireless Services, Inc. and Cingular Wireless Corp. For Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 19 FCC Rcd 21522, 21542 (2004) (“Cingular-AT&T Wireless Order”); *Applications for Consent to the Assignment of Licenses Pursuant to Section 310(d) of the Communications Act from NextWave Personal Communications, Inc., Debtor-in-Possession, to Subsidiaries of Cingular Wireless LLC*, Memorandum Opinion and Order, 19 FCC Rcd 2570, 2580 (“Cingular-NextWave Order”).

interest benefits of the proposed transaction against any potential harm.² As demonstrated below, this transaction does not pose any harm and it will benefit wireless consumers. In particular, by acquiring control of the Licenses, AT&T will be able to augment its network capacity in order to enhance the scope and depth of services it offers in the areas of Oregon and Washington covered by the Licenses.³

In evaluating assignment applications under Section 310(d), the Commission focuses on whether the proposed assignee is qualified to hold Commission licenses.⁴ The qualifications of AT&T to hold and control Commission licenses are a matter of public record.⁵ Therefore, there is no question that AT&T possesses the qualifications required to control the Licenses.

The Commission has determined that applications that demonstrate on their face that a transaction will yield affirmative public interest benefits and will neither violate the Act or Commission rules, nor frustrate or undermine policies and enforcement of the Act by reducing competition or otherwise,⁶ do not require extensive review and expenditure of considerable resources by the Commission.⁷ This transaction meets this standard and should thus be granted promptly.

² *AT&T-Dobson Order* at ¶ 10; *Alltel-Midwest Order*, 21 FCC Rcd at 11535; *Sprint-Nextel Order*, 20 FCC Rcd at 13976; *Alltel-Western Order*, 20 FCC Rcd at 13062-63; *Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21543; *Cingular-NextWave Order*, 19 FCC Rcd at 2580-81.

³ See, e.g., *AT&T-Dobson Order* at ¶ 79; *Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21602; *Cingular-NextWave Order*, 19 FCC Rcd at 2585; see also *Alltel-Midwest Order*, 21 FCC Rcd at 11566-68.

⁴ *AT&T-Dobson Order* at ¶ 11; *Alltel-Midwest Order*, 21 FCC Rcd at 11537; *Sprint-Nextel Order*, 20 FCC Rcd at 13979; *Alltel-Western Order*, 20 FCC Rcd at 13063; *Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21546; *Cingular-NextWave Order*, 19 FCC Rcd at 2581.

⁵ See, e.g., *AT&T-Dobson Order* at ¶ 11; *AT&T Inc. and BellSouth Corporation Application for Transfer of Control*, Memorandum Opinion and Order, 22 FCC Rcd 5662, 5758 (2007) (“*AT&T-BellSouth Order*”); *Cingular-AT&T Wireless Order* at 21548-51; *Cingular-NextWave Order* at 2583 & n.112; *Applications of SBC Communications, Inc. and BellSouth Corporation (For Consent to Transfer Control or Assignment of Licenses and Authorizations)*, Memorandum Opinion and Order, 15 FCC Rcd 25459, 25463-66 (WTB/IB 2000) (“*SBC-BellSouth Order*”); ULS File No. 0002458595 (assignment of licenses to NCW PCS). AT&T Mobility was formerly known as Cingular.

⁶ See *Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorizations from Telecommunications, Inc., Transferor to AT&T Corp., Transferee*, Memorandum Opinion and Order, 14 FCC Rcd 3160, 3170 (1999); *Ameritech Corp., Transferor, and SBC Communications Inc., Transferee, For Consent to Transfer Control of Corporations Holding Commission Licenses and Lines Pursuant to Sections 214 and 310(d) of the Communications Act and Parts 5, 22, 24, 25, 63, 90, 95 and 101 of the Commission’s Rules*, Memorandum Opinion and Order, 14 FCC Rcd 14712, at 14740-42 (1999) (“*Ameritech/SBC*”).

⁷ See *Ameritech/SBC*, 14 FCC Rcd at 14740-42.

A. The Proposed Transaction Serves the Public Interest

Commission approval of the proposed transaction will promote the public interest. The proposed transaction will enable AT&T to achieve greater operational efficiencies and offer improved, more robust and advanced services to meet the needs of new and existing subscribers.⁸ Specifically, the additional spectrum will enable AT&T to increase its system capacity to enhance existing services, better accommodate its overall growth, and facilitate the provision of additional products and services to the public in the areas of Oregon and Washington⁹ authorized under the Licenses. The additional spectrum will facilitate AT&T's continued deployment of GSM/EDGE and HSDPA/UMTS technologies and help AT&T efficiently deploy LTE technology, an ultra wideband next generation technology that will be deployed in the future.¹⁰

B. The Proposed Transaction Creates No Competitive Harm – Spectrum Aggregation/Number of Competitors

The proposed transaction will have no adverse competitive effects. It will neither cause an aggregation of spectrum that would pose an anticompetitive risk nor reduce actual competition¹¹ in any meaningful way for a variety of reasons.¹² First, the proposed transaction

⁸ Transactions that give rise to these results have been found by the Commission to be in the public interest. See *AT&T-Dobson Order* at ¶¶ 79, 83; *Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21602-04, 21607; *Cingular-NextWave Order*, 19 FCC Rcd at 2585; *Applications of Northcoast Communications, LLC and Cellco Partnership d/b/a Verizon Wireless For Consent to Assignment of Licenses*, Memorandum Opinion and Order, 18 FCC Rcd 6490, 6493 (WTB/CWD 2003) (“*VZW-Northcoast Order*”).

⁹ Among other things, the Commission's public interest calculus takes into consideration the extent to which the transaction will accelerate the “deployment of advanced services” and “affect the quality of communications services or will result in the provision of new or additional services to consumers.” *AT&T-Dobson Order* at ¶ 12; *Alltel-Western Order*, 20 FCC Rcd at 13064-65; *Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21544.

¹⁰ See, e.g., *AT&T-Dobson Order* at ¶ 4.

¹¹ The transaction will not reduce the number of actual competitors and no subscribers will be disadvantaged since Vulcan has not yet commenced operations. Further, Vulcan is authorized to provide service in 39 of the 69 counties affected by this transaction by virtue of the fact that it is the licensee of WQIZ638 (Portland-Salem, OR-WA BEA) and WQIZ639 (Seattle-Tacoma-Bremerton, WA BEA) each of which are 12 MHz Lower 700 MHz A Block licenses.

¹² In evaluating the competitive effects of proposed transactions, the Commission considers the relevant product market and geographic market. With respect to the domestic wireless markets, the Commission has defined the relevant product market as mobile telephony services. See *AT&T-Dobson Order* at ¶ 17. Spectrum suitable for mobile telephony includes cellular, PCS, SMR and 700 MHz spectrum. *Id.* at ¶¶ 17, 30. The Commission has further held that, where available, it will include AWS-1 and BRS spectrum in its evaluation of the competitive effects of proposed transactions. *Applications of Cellco Partnership d/b/a Verizon Wireless and Atlantis Holdings LLC For Consent to Transfer Control of Licenses, Authorizations, and Spectrum Manager and De Facto Transfer Leasing Arrangements and Petition for Declaratory Ruling that the Transaction is Consistent with Section 310(b)(4) of the Communications Act*, Memorandum Opinion and Order and Declaratory Ruling, FCC 08-258, at ¶¶ 62-70 (Nov. 10, 2008) (“*Verizon Wireless-ALLTEL Order*”). The Commission has defined the relevant geographic market as the area “within which a customer is most likely to shop for mobile telephony service.” *Id.* at 25; see also *Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21563 (“[T]he appropriate definition of the relevant geographic market is neither national, on the one hand, nor as small as a county on the other.”).

will not cause an aggregation of spectrum that would pose an anticompetitive risk. AT&T through affiliated companies under its common control and in which it holds an “attributable interest” for spectrum aggregation purposes, will have between 32 and 109 MHz of attributable spectrum holdings in the counties affected by the transaction. These post-transaction holdings will not exceed the Commission’s initial screen in any county, and thus no additional review of this transaction for competitive harm from a spectrum aggregation standpoint is called for.¹³

Second, the proposed transaction will not reduce actual competition in any meaningful way in any relevant market. To the contrary, the transaction will “preserv[e] and enhanc[e] competition.”¹⁴ In fact, the proposed transaction will enhance competition by enabling AT&T to be a more effective competitor, while preserving meaningful competition in this market. Specifically, the transaction will not result in public interest harm in mobile telephony markets “because there will be a continuing presence of multiple other substantial carriers in each overlap market with the capacity to add subscribers and the ability to add capacity.”¹⁵ As shown in Exhibit 4, there will remain four or more licensed providers (including AT&T) in each county impacted by the transaction, including all four of the largest “nationwide” wireless carriers. Specifically, Verizon Wireless has holdings ranging from 32 to 89 MHz, Sprint Nextel (together with its affiliate New Clearwire) has holdings ranging from 75 to 104 MHz, and T-Mobile has holdings ranging from 30 to 90 MHz. In addition, U.S. Cellular holds spectrum in 42 of the 69 affected counties, with holdings between 12 and 49 MHz.¹⁶ As a result, this transaction “is unlikely to result in collusive behavior or create ‘unilateral’ market power” on the part of the assignee.¹⁷

IV. Conclusion

As demonstrated above, AT&T Mobility is well-qualified to acquire, control and make beneficial public use of the Licenses. In addition, as set forth above, the proposed transaction will not adversely affect competition. Indeed, grant of this application will promote competition and will otherwise serve the public interest, convenience and necessity. For these reasons, prompt Commission approval of this transaction is warranted.

¹³ See *Verizon Wireless-ALLTEL Order* at ¶ 64 (“For markets in which AWS-1 and BRS spectrum is available, we revise the screen to 145 MHz. For markets in which AWS-1 is available but BRS is not available, we use a spectrum screen of 125 megahertz. For markets in which BRS is available but AWS-1 is not available, we use a spectrum screen of 115 megahertz. Finally, for markets in which neither BRS nor AWS-1 is available, we use a 95 megahertz spectrum screen.”). The relevant screen for this transaction is 115, 125, or 145 MHz, depending on the county. Exhibit 3 notes the applicable screen in each county and demonstrates that AT&T will not exceed the screen in any of the 24 CMAs affected by this transaction.

¹⁴ *AT&T-Dobson Order* at ¶ 12; *Sprint-Nextel Order*, 20 FCC Rcd at 13977; *Alltel-Western Order*, 20 FCC Rcd at 13064; *Cingular-AT&T Wireless Order*, 19 FCC Rcd at 21544.

¹⁵ See *Sprint-Nextel Order*, 20 FCC Rcd at 13969.

¹⁶ The spectrum totals for U.S. Cellular include the holdings of its subsidiary King Street Wireless, L.P. (“King Street”), in which it holds a 90 percent interest. Further, the totals assume that King Street’s pending Auction 73 long form application will be granted.

¹⁷ See *Sprint-Nextel Order*, 20 FCC Rcd at 13969.