

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matters of)	
)	
Applications of AT&T Inc. and Deutsche Telekom AG For Consent to Transfer Control of Licenses and Authorizations	)	WT Docket No. 11-65
)	
AT&T Mobility Spectrum LLC and Qualcomm Incorporated Seek FCC Consent to the Assignment of Lower 700 MHz Band Licenses	)	WT Docket No. 11-18 DA 11-252 ULS File No. 0004566825
)	
Applications for Assignment of Licenses from Whidbey Telephone Company to AT&T Mobility Spectrum LLC	)	ULS File Nos. 0004544863 and 0004544869
)	
Application for Assignment of License from 700 MHz, LLC to AT&T Mobility Spectrum LLC	)	ULS File No. 000421016
)	
Application for Assignment of License from Knology of Kansas, Inc. to AT&T Mobility Spectrum LLC	)	ULS File No. 0004635440
)	
Application for Transfer of Control of Redwood Wireless Corp. to AT&T Inc.	)	ULS File No. 0004643747
)	
Application for Assignment of License from Windstream Lakedale, Inc. to AT&T Mobility Spectrum LLC	)	ULS File No. 0004681773
)	
Application for Assignment of Licenses from Windstream Iowa Communications to AT&T Mobility Spectrum LLC	)	ULS File No. 0004681771
)	
Application for Assignment of License from Maxima International, LLC to AT&T Mobility Spectrum LLC	)	ULS File No. 0004699707
)	
Application for Assignment of Licenses From D&E Investments, Inc. to New Cingular Wireless PCS LLC	)	ULS File No. 0004448347
)	

**OPPOSITION OF DEUTSCHE TELEKOM
TO JOINT MOTION TO CONSOLIDATE PROCEEDINGS**

Deutsche Telekom AG (“Deutsche Telekom”) hereby opposes the Joint Motion to Consolidate the above-captioned proceedings, filed on June 9, 2011 by Cincinnati Bell Wireless, LLC, MetroPCS Communications, Inc., NTELOS, the Rural Cellular Association, the Rural Telecommunications Group, and Sprint Nextel Corporation (collectively, “Joint Parties”). The proceedings identified by the Joint Parties concern entirely distinct transactions with different parties, terms, agreements and public interest showings. They are not mutually exclusive or contingent in any way. There is no basis in law or policy for consolidating them.

Out of the ten proceedings identified by the Joint Parties, Deutsche Telekom is a party to only one of them, WT Docket No. 11-65.¹ Just as Deutsche Telekom has no role or interest in the Qualcomm proceeding, as explained in its earlier-filed Opposition to Requests to Consolidate Proceedings,² Deutsche Telekom also has no role or interest in the other eight proceedings, involving 44 proposed assignments and transfers of 700 MHz licenses (the “Serial 700 MHz transactions”), identified by the Joint Parties in their most recent Joint Motion to Consolidate.³ The transfer of FCC licenses from Deutsche

¹ WT Docket No. 11-65 concerns applications filed by Deutsche Telekom and AT&T Inc. (“AT&T”) for the transfer of FCC licenses and authorizations held by T-Mobile USA, Inc. and its subsidiaries to AT&T.

² Opposition of Deutsche Telekom to Requests to Consolidate Proceedings, WT Docket Nos. 11-65 & 11-18 (May 3, 2011) (“First Opposition to Motion to Consolidate”).

³ Joint Motion to Consolidate Proceedings, WT Docket Nos. 11-65 & 11-18, ULS File Nos. 0004544863, 0004544869, 000421016, 0004635440, 0004643747, 0004681773, 0004681771, 0004699707, 0004448347 (filed June 9, 2011) (“Second Joint Motion”).

Telekom to AT&T in the proposed AT&T/T-Mobile USA transaction is not mutually exclusive with the Qualcomm transaction or the Serial 700 MHz transactions, nor contingent on these proceedings in any way. In such circumstances, there is no basis for consolidating these ten proceedings. Accordingly, the Commission should reject the Joint Parties' motion to consolidate the AT&T/T-Mobile USA transaction with these unrelated proceedings.

The Commission has consistently denied requests to consolidate its review of separate transactions, even where the two transactions may have a common party.⁴ In denying one such request, the Chief of the Wireless Telecommunications Bureau explained that “[i]n the past, the Commission has denied requests for consolidation when the business transactions involved are independent, and neither is conditioned on the consummation of the other.”⁵ The Order elaborated further that

OneComm and Motorola, the two applicants involved here, are distinct entities. They both happen to have entered into agreements with the same party, Nextel, but the agreements involve different business terms, are structured differently, and are neither interrelated nor dependent on one another. We believe it would not serve the public interest to delay consummation of the OneComm transaction simply because Motorola also requested permission to transfer licenses to Nextel four months later.⁶

⁴ See, e.g., *Applications Filed for the Acquisition of Certain Assets of Cimco Communications, Inc., by Comcast Phone LLC, Comcast Phone of Michigan, LLC and Comcast Business Communications*, Memorandum Opinion and Order and Order on Reconsideration, 25 FCC Rcd 3401, ¶8 n.16 (2010); *Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorizations from MediaOne Group, Inc., Transferor, to AT&T Corp., Transferee*, Memorandum Opinion and Order, 15 FCC Rcd 9816, ¶179 (2000); *Applications of Motorola, Inc. for Consent to Assign 800 MHz Licenses to Nextel Communications, Inc.*, Order, 10 FCC Rcd 7783, ¶12 (1995); *Applications of Nextel Communications, Inc., for Transfer of Control of OneComm Corporation, N.A. and C-Call Corp.*, Order, 10 FCC Rcd 3361, ¶¶16-20 (1995).

⁵ *Applications of Nextel Communications, Inc., for Transfer of Control of OneComm Corporation, N.A. and C-Call Corp.*, Order, 10 FCC Rcd 3361, ¶17 (1995).

⁶ *Id.* at ¶18.

Based on that analysis, the Bureau denied the request to consolidate proceedings in that case.

Indeed, as AT&T and Qualcomm pointed out in a recent ex parte filing, the Commission has consolidated proceedings only where “where the licenses, applicants or issues were the same.”⁷ Here, however, the licenses and issues are all unrelated; the fact that AT&T is a party to each of the proceedings is insufficient to make the proceedings “closely related,” despite the Joint Parties’ contention otherwise.⁸ Just as there was no match-up between issues, licenses, or parties between the AT&T/T-Mobile USA and AT&T/Qualcomm proposed transactions,⁹ there is no match-up here. Therefore, the Commission must follow precedent and reject the Joint Parties’ Motion to Consolidate.

While the Joint Parties argue that consolidation of proceedings is necessary because the Commission’s approval of the Serial 700 MHz Applications would increase “AT&T’s overall spectrum aggregation far beyond what is already contemplated in the T-Mobile and Qualcomm applications,” this argument is unavailing. Such consideration will occur naturally through the Commission’s sequential review of the transactions. If the Commission approves the proposed transfers in the Qualcomm proceeding or the Serial 700 MHz transactions, it will consider AT&T’s acquisition of the T-Mobile

⁷ Letter from AT&T and Qualcomm, Inc. to Marlene H. Dortch, Secretary of the Federal Communications Commission, Ex Parte Notification, WT Docket Nos. 11-65 & 11-18 (filed May 20, 2011).

⁸ Second Joint Motion at 5.

⁹ First Opposition to Motion to Consolidate at 3 n.6 (explaining why the *Tribune Company* decision cited by the Joint Parties in their First Motion to Consolidate did not support the motion because the “*only* issues remaining in the renewal proceedings were those involving waivers at issue in the transfer proceeding”) (emphasis added).

licenses from Deutsche Telekom against that background. Accordingly, this argument does not provide any basis for consolidation of the proceedings.

For the foregoing reasons, the Joint Parties have failed to articulate good cause for consolidating the above-captioned proceedings. The Commission should follow its precedent and deny their request.

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CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of June, 2011, I caused true and correct copies of the foregoing Opposition of Deutsche Telekom to Requests to Consolidate Proceedings to be mailed by first class U.S. mail to:

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