

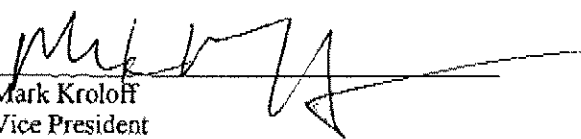
Cook Inlet/VS GSM VII PCS, LLC
FCC Form 175, Auction 58
Exhibit G - Amended
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FCC FORM 175
EXHIBIT G
MISCELLANEOUS INFORMATION

The Applicant filed, on December 21, 2004, a petition for declaratory ruling under Section 310(b)(4) of the Communications Act of 1934, seeking a determination that the indirect foreign ownership of the Applicant is in the public interest. The determination is required because DT, a company organized under the laws of the Federal Republic of Germany, holds an indirect, attributable interest in the Applicant that exceeds the 25 percent benchmark imposed by Section 310(b)(4).

The form of petition for declaratory ruling is attached.

The undersigned certifies that the form of petition for declaratory ruling attached hereto is a true, correct and complete copy of the petition filed by the Applicant with the Commission.


Mark Kroloff
Vice President
Cook Inlet Voice and Data Services, Inc.
(Manager of Manager)

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

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

To: The Commission

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

Cook Inlet/VS GSM VII PCS, LLC (“CIVS VII”), by its attorneys, hereby respectfully petitions the Commission to issue a declaratory ruling under its streamlined processing procedures¹ to permit indirect foreign ownership in CIVS VII in excess of the 25 percent benchmark set forth in Section 310(b)(4) of the Communications Act of 1934, as amended (the “Act”).² As described more fully below, the 85 percent indirect foreign ownership interest in CIVS VII is consistent with prior Commission rulings related to foreign

¹ See *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, 12 FCC Rcd 23891, 23940 (1997) (applying an open entry policy to Section 310(b)(4) requests involving indirect investments by World Trade Organization members to exceed the 25 percent benchmark) (the “*Foreign Participation Order*”).

² See 47 U.S.C. § 310(b)(4). Section 310(b)(4) of the Act establishes a 25 percent benchmark for indirect investment by foreign individuals, corporations, and governments in U.S. common carrier radio licensees, but grants the Commission the discretion to allow higher levels of foreign ownership if it determines that such ownership is consistent with the public interest. See *id.*

ownership in other entities in which T-Mobile USA, Inc., a Delaware corporation (“T-Mobile”), holds a substantial but non-controlling interest, and would otherwise serve the public interest, convenience, and necessity.

CIVS VII is a Delaware limited liability company. Its sole member is Cook Inlet/VS GSM VII PCS Holdings, LLC (“CIVS Holdings”), also a Delaware limited liability company. CIVS Holdings has two members. The first, Cook Inlet Voice and Data Services, Inc. (“CIVDS”), holds all of the Class A membership interests in, and is the sole manager of, CIVS Holdings.³ As of the date of this petition, the Class A membership interests also represent a 50.1 percent equity interest in CIVS Holdings.⁴ T-Mobile, through its indirect wholly owned subsidiary, VoiceStream PCS BTA I Corporation (“VSBTA”), is the other member of CIVS Holdings. VSBTA holds 100 percent of the Class B membership interests in CIVS Holdings. As of the date of this petition, the Class B membership interests represent a 49.9 percent equity interest in CIVS Holdings, but that interest could increase to as much as 85 percent. VSBTA, as a Class B member, enjoys the benefit of certain standard investment protections with respect to the business and operations of CIVS Holdings, but does not have any ability to control the management or day-to-day operations of CIVS Holdings or CIVS VII. CIVS VII does not currently hold FCC licenses, but intends to participate in Auction No. 58.

Levels of foreign ownership of up to 100 percent involving T-Mobile subsidiaries, including other FCC applicants in which T-Mobile has held an indirect ownership interest, have

³ Cook Inlet Region, Inc., an Alaska Native Regional Corporation organized pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. § 1601 *et seq.*, is the ultimate parent company of CIVDS.

⁴ The limited liability company operating agreement of CIVS Holdings permits CIVS Holdings to call additional equity from its other member until the point that CIVDS’s equity interest in CIVS Holdings is diluted to 15 percent.

previously been approved by the Commission. On April 27, 2001, the Commission issued an order granting the applications of T-Mobile (formerly known as VoiceStream Wireless Corporation (“VoiceStream”)) for authority to transfer control of its licensee subsidiaries to a wholly owned U.S. subsidiary of Deutsche Telekom, AG (“DT”), an AKTIENGESELLSCHAFT organized and existing under the laws of the Federal Republic of Germany,⁵ to effect a merger between VoiceStream and DT.⁶ The Commission found that DT’s indirect investment in VoiceStream and its licensee subsidiaries in excess of the 25 percent benchmark set forth in Section 310(b)(4) was consistent with the public interest.⁷ Specifically, the Commission authorized up to 100 percent indirect foreign investment in T-Mobile and its licensee subsidiaries by DT and its German shareholders, and by the German government through its investment in DT. The Commission subsequently approved 100 percent indirect foreign investment in several other T-Mobile licensee subsidiaries.⁸ In authorizing DT’s 100 percent interest in T-Mobile, the Commission also authorized DT to hold an indirect 85 percent foreign ownership interest in

⁵ The Federal Republic of Germany is a World Trade Organization Member (“WTO Member”).

⁶ See *VoiceStream Wireless Corporation, Powertel, Inc., Transferors, and Deutsche Telekom AG, Transferee, to Transfer Control of Licenses and Authorizations, et al.*, 16 FCC Rcd 9779 (2001) (“*VoiceStream-DT Order*”). The transfer of control of T-Mobile to DT was consummated on May 31, 2001. DT continues to hold 100 percent of the ownership interests in T-Mobile (through DT’s wholly owned subsidiary, T-Mobile International Holding GmbH, which in turn holds all of the interests in T-Mobile International AG & Co. KG, which in turn holds all of the interests in T-Mobile Global Holding GmbH, which in turn holds all of the interests in T-Mobile) and, indirectly, in the T-Mobile licensee subsidiaries.

⁷ See *id.* at ¶ 125. Since the consummation of the transfer of control of T-Mobile to DT on May 31, 2001, there has been virtually no increase in the Federal Republic of Germany’s ownership interest in DT or, indirectly, in T-Mobile.

⁸ See, e.g., *International Authorizations Granted*, 2002 FCC LEXIS 1446, Rep. No. TEL-00649 (Int’l Bureau, rel. Mar. 20, 2003) (granting indirect foreign ownership in Cook Inlet/VS GSM VI PCS, LLC in excess of the twenty-five percent benchmark of Section 310(b)(4)).

entities where T-Mobile holds indirect, non-controlling interests.⁹ More recently, the Commission has approved 85 percent indirect foreign ownership in licensees in which a T-Mobile entity holds a non-controlling interest.¹⁰

The maximum indirect foreign ownership in CIVS VII attributable through T-Mobile's indirect investment as a Class B member of CIVS Holdings will be 85 percent. CIVDS believes that the same public interest rationales that applied to the Commission's approval of the current level of indirect foreign ownership in T-Mobile's licensee subsidiaries should apply with equal force to the current and proposed indirect foreign ownership in CIVS VII. The Commission in the *VoiceStream-DT Order* noted that "foreign investment can promote competition in U.S. markets and that the public interest is served by permitting more open investment in U.S. common carrier radio licenses by entities from WTO Member countries."¹¹ The Commission accordingly adopted the rebuttable presumption that no competitive concerns are raised by the indirect foreign investment in licensees by entities from WTO Member countries.¹² The requested level of indirect foreign investment in CIVS VII should be entitled to the same presumption.

In addition, authorizing these additional levels of indirect foreign ownership interest will serve the public interest because T-Mobile's equity investment in CIVS Holdings

⁹ See *VoiceStream-DT Order*, 16 FCC Rcd ¶ 131 (concluding that raising the level of foreign ownership in T-Mobile does not harm the public interest).

¹⁰ For example, the Commission authorized indirect attributable foreign ownership interest of up to 85% in the case of Cook Inlet VS GSM V PCS, LLC. See *International Authorizations Granted*, Public Notice, DA No. 01-923 (Int'l Bureau, rel. April 12, 2001), granting File No. ISP-PDR-20010212-00010.

¹¹ See *id.* ¶ 18 (citing *Foreign Participation Order* at 23940).

¹² See *id.*

and CIVS VII will facilitate CIVS VII's development of a more efficient and competitive wireless GSM network that offers consumers a choice from among a variety of advanced mobile services and seamless national and international roaming. Because wireless service operators in more than 170 countries have selected GSM-based technologies for their advanced digital wireless networks, the GSM network will allow for international roaming throughout the United States, Europe, Asia, Africa, the Middle East, Australia, New Zealand, India and China. Grant of this petition for declaratory ruling will therefore benefit not only users of CIVS VII's future GSM systems, but also non-GSM users who will enjoy the lower prices and innovative service offerings that will naturally flow from increased competition.

The current foreign investment in T-Mobile serves to bolster the resources available to T-Mobile and, through T-Mobile, to CIVS VII for the development and operation of CIVS VII's wireless network should it win licenses in Auction No. 58. Furthermore, because the home markets of the foreign investors in T-Mobile described above are in WTO countries, the foreign ownership in T-Mobile and indirectly in CIVS VII is entitled to the benefit of the presumption that such foreign investment raises no competitive concerns, and that the public interest would be served by such indirect foreign investment.

Thus, for the reasons stated above, the Commission should find that indirect 85 percent foreign ownership in CIVS VII is permissible under Section 310(b)(4) of the Act, is consistent with the Commission's prior decisions, and is in the public interest. Moreover, because Germany, DT's home country, is a WTO Member, T-Mobile requests streamlined processing under the *Foreign Participation Order*.¹³

Respectfully submitted,

Cook Inlet/VS GSM VII PCS, LLC

**by its Manager,
Cook Inlet/VS GSM VII PCS Holdings, LLC**

**by its Manager,
Cook Inlet Voice and Data Services, Inc.**

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Dated: December 21, 2004

¹³ See note 2, *supra*.