

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

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In the Matter of )

**Cook Inlet GSM IV PCS Holdings, LLC** )

Petition for Determination of the Public Interest )  
Under Section 310(b)(4) of the Communications )  
Act of 1934, As Amended )

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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**

T-Mobile USA, Inc. (“T-Mobile”) requests that the Commission issue a declaratory ruling under Section 310(b)(4) of the Communications Act<sup>1</sup> allowing up to 100 percent indirect foreign ownership in Cook Inlet GSM IV PCS Holdings, LLC, an indirect wholly-owned subsidiary of T-Mobile (“Cook IV”). At the request of International Bureau (“IB”) staff, this petition was prepared in connection with then-pending assignment applications of Cook IV, ULS File Nos. 0003436340, 0003461617 and 0003461622. Prior to the filing of this petition, the Wireless Bureau granted the foregoing assignment applications.<sup>2</sup> Furthermore, Cook IV has

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<sup>1</sup> 47 U.S.C. § 310(b)(4).

<sup>2</sup> See FCC Public Notice, Wireless Telecommunications Bureau Assignment of License Authorization Applications, Transfer of Control of Licensee Applications, De Facto Transfer Lease Applications and Spectrum Manager Lease Notifications, Designated Entity Reportable (continued...)

been a Commission licensee following internal *pro forma* license assignments.<sup>3</sup> In each case, Cook IV had adequate authority because Cook IV has shared the identical 100 percent foreign ownership by T-Mobile as specifically approved for other wholly-owned T-Mobile licensee subsidiaries,<sup>4</sup> and accordingly Cook IV relied on the prior declaratory rulings for those other licensee subsidiaries. Despite these prior application approvals and *pro forma* assignments, at the request of IB staff, T-Mobile is nonetheless filing this petition to obtain a specific ruling in the name of Cook IV.

T-Mobile requests streamlined processing.<sup>5</sup>

## I. INTRODUCTION

T-Mobile is the U.S. operations of T-Mobile International AG, the mobile communications subsidiary of Deutsche Telekom AG (“DT”).<sup>6</sup> DT acquired VoiceStream Wireless Corporation (“VoiceStream”) in May of 2001. VoiceStream subsequently changed its corporate name to “T-Mobile USA, Inc.” Prior to the acquisition, the Commission issued an

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Eligibility Event Applications, and Designated Entity Annual Reports Action, Report No. 4346 at 4, 6 (Sept. 3, 2008).

<sup>3</sup> See FCC Public Notice, Wireless Telecommunications Bureau Assignment of License Authorization Applications, Transfer of Control of Licensee Applications, De Facto Transfer Lease Applications and Spectrum Manager Lease Notifications, Designated Entity Reportable Eligibility Event Applications, and Designated Entity Annual Reports Action, Report No. 2659 at 12 (Sept. 20, 2006).

<sup>4</sup> See *VoiceStream Wireless Corp., Powertel, Inc., Transferors, and Deutsche Telekom AG, Transferee*, 16 FCC Rcd 9779 (2001) (“*VoiceStream-DT Order*”).

<sup>5</sup> 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 twenty-five percent benchmark) (the “*Foreign Participation Order*”).

<sup>6</sup> DT is an AKTIENGESELLSCHAFT organized and existing under the laws of the Federal Republic of Germany. The Federal Republic of Germany is a World Trade Organization Member (“WTO Member”).

order granting VoiceStream's applications to transfer control of its licensee subsidiaries to DT's wholly-owned U.S. subsidiary.<sup>7</sup> In granting these applications, the Commission found that the transfer of control was consistent with the public interest requirements regarding foreign ownership of radio licenses of Section 310(b)(4) of the Communications Act of 1934, as amended (the "Act").<sup>8</sup>

T-Mobile now petitions the Commission to issue a new declaratory ruling allowing up to 100 percent foreign ownership in Cook IV under its streamlined processing procedures.<sup>9</sup>

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<sup>7</sup> See *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 (*see infra* note 9).

<sup>8</sup> 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.

<sup>9</sup> See *Foreign Participation Order*, 12 FCC Rcd at 23940 (applying an open entry policy to Section 310(b)(4) requests involving indirect investments by World Trade Organization members to exceed the twenty-five percent benchmark). T-Mobile filed a Petition for Reconsideration or, in the Alternative, Clarification in the Secondary Markets proceeding, WT Docket No. 00-230 (Jan. 27, 2005) (the "*Petition for Reconsideration*"), which (among other issues) seeks clarification that a new declaratory ruling is unnecessary in the event that the particular entity involved in the subject transaction is, or will become, a wholly-owned direct or indirect subsidiary of the parent whose foreign ownership levels have already been cleared by the Commission (and any other relevant Executive Branch agencies), even if the particular entity has not received its own declaratory ruling. See *Petition for Reconsideration* at 8-9. T-Mobile cited to an order in the secondary markets docket in which the Commission acknowledged the burdens imposed by requiring separate declaratory rulings for each licensee subsidiary and attempted to strike a "balance between the concerns raised by T-Mobile, reducing transaction costs, including unnecessary regulatory delay, and the concerns raised by the Executive Branch in numerous licensing proceedings before the Commission." *Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets*, Second Report and Order, Order on Reconsideration, and Second Further Notice of Proposed Rulemaking, 19 FCC Rcd 17503, 17515 & n.55 (2004). T-Mobile intends to withdraw the *Petition for Reconsideration* once it has addressed all of the relevant issues through other filings. T-Mobile also filed a Petition for Clarification or, in the Alternative, Declaratory Ruling under Section 310(b)(4) of (continued...)

As described below, the resulting 100 percent indirect foreign ownership in Cook IV is consistent with prior Commission rulings related to indirect foreign ownership in T-Mobile's licensee subsidiaries and would otherwise serve the public interest, convenience, and necessity.<sup>10</sup>

## **II. THE COMMISSION'S PRIOR DECISIONS AUTHORIZING INDIRECT FOREIGN OWNERSHIP IN T-MOBILE IN EXCESS OF TWENTY-FIVE PERCENT SUPPORT THE INSTANT PETITION**

As illustrated in the chart attached hereto as Exhibit A, Cook IV, a Delaware limited liability company, is a wholly owned subsidiary of T-Mobile Central LLC ("TMO Central"), a Delaware limited liability company. TMO Central is a direct, wholly owned subsidiary of T-Mobile. T-Mobile is a Delaware corporation and an indirect, wholly owned subsidiary of DT, a publicly traded German corporation through intermediate-tier holding companies as shown on Exhibit A. As stated above, the Commission has previously approved indirect foreign ownership of T-Mobile and its licensee subsidiaries beyond the twenty-five percent benchmark prescribed in Section 310(b)(4) of the Act in an order released on April 27, 2001.<sup>11</sup> Specifically, the

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the Communications Act of 1934, as Amended, and Request for Streamlined Processing, ISP-PDR-20060623-00018 (June 23, 2006), seeking a ruling approving 100 percent foreign ownership in Cook IV under Section 310(b)(4) in the context of prior *pro forma* assignments, which is hereby withdrawn.

<sup>10</sup> Indirect foreign ownership in Cook IV exceeding the twenty-five percent benchmark of Section 310(b)(4) complies with other Commission decisions with respect to other T-Mobile licensee subsidiaries. *See, e.g., International Authorizations Granted*, 18 FCC Rcd 5014, 5015 (IB 2003) ("*CIVS VI Order*") (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)); *International Authorizations Granted*, 21 FCC Rcd 14062, 14063 (IB 2006) ("*AWS Order*") (approving 100 percent indirect foreign investment in T-Mobile and its licensee subsidiaries, including T-Mobile License, in connection with holdings of AWS spectrum); and *T-Mobile USA, Inc. and SunCom Wireless Holding, Inc.*, 23 FCC Rcd 2515, 2523 (2008) ("*SunCom Order*") (granting indirect foreign ownership of 100 percent in connection with T-Mobile's acquisition of control of the wireless licenses and authorizations of SunCom Wireless License Company, LLC and SunCom Wireless Puerto Rico License Co., LLC).

<sup>11</sup> *See VoiceStream-DT Order*, 16 FCC Rcd at 9850-51.

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 (up to and including forty-three percent).<sup>12</sup> T-Mobile, moreover, certifies that it is in compliance with the Commission's foreign ownership orders.<sup>13</sup>

The Commission's reasoning in the *VoiceStream-DT Order*, authorizing the 100 percent indirect foreign ownership interest in T-Mobile's licensee subsidiaries, is applicable to this case. In granting the amount of T-Mobile's foreign ownership, the Commission examined "whether the proposed foreign government ownership would pose a high risk of harm to competition in the U.S. market and ha[s] concluded that it would not."<sup>14</sup> More recently, the Commission has granted indirect foreign ownership of other T-Mobile licensee subsidiaries such as CIVS VI, after finding "that it would not serve the public interest to prohibit the indirect foreign ownership of CIVS VI in excess of the 25 percent benchmark of Section 310(b)(4)."<sup>15</sup>

Certainly, the same public interest rationales that applied to the Commission's approval of the current level of indirect foreign ownership in T-Mobile's other licensee subsidiaries should apply with equal force to indirect foreign ownership in Cook IV. The Commission in the *VoiceStream-DT Order* noted that "foreign investment can promote competition in U.S. markets

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<sup>12</sup> See *id.* at 9785-87, 9850-51. Since the consummation of the transfer of control of T-Mobile to DT on May 31, 2001, there has been a *decrease* in the Federal Republic of Germany's ownership interest in DT and, indirectly, in T-Mobile, from 45.7 percent to 31.7 percent. DT continues to hold 100 percent of the ownership interests in T-Mobile (through DT's wholly-owned subsidiary, T-Mobile International AG, 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 T-Mobile License and the other T-Mobile licensee subsidiaries.

<sup>13</sup> See *Foreign Participation Order; VoiceStream-DT Order*, 16 FCC Rcd at 9845, 9850-51; see also, e.g., *CIVS VI Order*, 18 FCC Rcd at 5015.

<sup>14</sup> See *VoiceStream-DT Order*, 16 FCC Rcd at 9845.

and that the public interest is served by permitting more open investment in U.S. common carrier radio licensees by entities from WTO Member countries.”<sup>16</sup> The Commission accordingly adopted the rebuttable presumption that indirect foreign investments by entities from WTO Member countries raise no competitive concerns.<sup>17</sup> Indirect foreign ownership in Cook IV resulting from the pending license assignments should be entitled to the same presumption.

T-Mobile's operations in the U.S. have benefited American consumers and wireless competition by introducing competitive rates, expanding coverage into new markets, and developing new and innovative services. Especially in a time of some consolidation in the wireless marketplace, T-Mobile's presence is important. The growth of the company has experienced is a testament to its success in the U.S. market. Indeed, T-Mobile had fewer than 6 million customers and 8,200 employees in the United States in 2001. Today, T-Mobile is one of the fastest growing nationwide wireless service providers with more than 30 million wireless subscribers, with a wireless network reaching more than 244 million people, excluding roaming coverage. T-Mobile also provides Wi-Fi access at more than 8,900 public locations throughout the country. T-Mobile's network is based upon the Global System for Mobile Communications (“GSM”) and Enhanced Data Rates for GSM Evolution (“EDGE”) technologies. In addition, T-Mobile is actively deploying a third generation (“3G”) Universal Mobile Telecommunications System (“UMTS”) network in the United States. T-Mobile's innovative wireless products and services help empower customers to connect effortlessly to others. Multiple independent

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<sup>15</sup> See *CIVS VI Order*, 18 FCC Rcd at 5015; see also *AWS Order*, 21 FCC Rcd at 14063, and *SunCom Order*, 23 FCC Rcd at 2523.

<sup>16</sup> See *VoiceStream-DT Order*, 16 FCC Rcd at 9790 (citing *Foreign Participation Order* at 23940).

<sup>17</sup> See *id.*

research studies consistently rank T-Mobile highest in wireless customer service and satisfaction throughout the United States.<sup>18</sup> Based in Bellevue, Washington, T-Mobile has approximately 35,000 employees. T-Mobile is a member of the T-Mobile International group, one of the world's leading companies in mobile communications, and a wholly-owned subsidiary of Deutsche Telekom AG ("DT"). DT is a publicly traded German corporation in which the Federal Republic of Germany holds an approximate 31.70 percent attributable ownership interest. Without a doubt, T-Mobile has been and will continue to be a positive force in the U.S. wireless marketplace, to the benefit of the public.

T-Mobile contends that indirect foreign ownership in Cook IV is consistent with the public interest, convenience, and necessity.<sup>19</sup> Attributable indirect foreign investment in Cook IV will facilitate the development of a competitive national wireless GSM network that offers consumers a variety of advanced mobile services and seamless national and international roaming. Furthermore, the assignments that are the subject of the pending assignment applications will not change, and will have no impact upon, the current indirect foreign ownership in T-Mobile.

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<sup>18</sup> See J.D. Power and Associates Press Release, *Customer Satisfaction with the Wireless Retail Sales Experience Decreases Due to Issues with Product Information and Promotional Incentives: T-Mobile Ranks Highest in Wireless Retail Sales Satisfaction*, May 8, 2008, available at <http://www.jdpower.com/corporate/news/releases/pressrelease.aspx?ID=2008048>, and J.D. Power and Associates Press Release, *T-Mobile Ranks Highest in Wireless Customer Care Performance for a Seventh Consecutive Time*, Jan. 31, 2008, available at <http://www.jdpower.com/corporate/news/releases/pressrelease.aspx?ID=2008018>.

<sup>19</sup> An FCC Form 602 providing a detailed analysis of T-Mobile's current foreign ownership is on file with the Commission.

### III. ADDITIONAL INFORMATION SUPPLIED IN RESPONSE TO REQUEST FROM INTERNATIONAL BUREAU STAFF

In response to a request from International Bureau staff, we are providing certain information relating to the intermediate-tier holding companies, some of which have changed since the closing of the DT-VoiceStream merger in 2001. Specifically, Exhibit B provides the principal place of business for each intermediate-tier company that is organized in a foreign country or principally conducts business in a foreign country, using the five factors listed in the Foreign Carrier Entry Order.<sup>20</sup> Furthermore, T-Mobile requests that approval of the current intermediate-tier holding companies extend not only to Cook IV but also to the other wholly-owned licensee subsidiaries of T-Mobile. In that regard, Exhibit C provides a list of the current licensee subsidiaries of T-Mobile.

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<sup>20</sup> See International Bureau, FCC, *Foreign Ownership Guidelines for FCC Common Carrier and Aeronautical Radio Licenses*, 19 FCC Rcd 22612, 22623 (IB 2004) (citing *Market Entry and Regulation of Foreign-Affiliated Entities*, Report and Order, 11 FCC Rcd 3873, 3951 (1995)).

### III. CONCLUSION

For the above reasons, indirect foreign ownership in Cook IV by DT and its German shareholders, and by the German government through its investment in DT is permissible under Section 310(b)(4) of the Act, is in the public interest, and is consistent with the Commission's prior decision.

Respectfully submitted,

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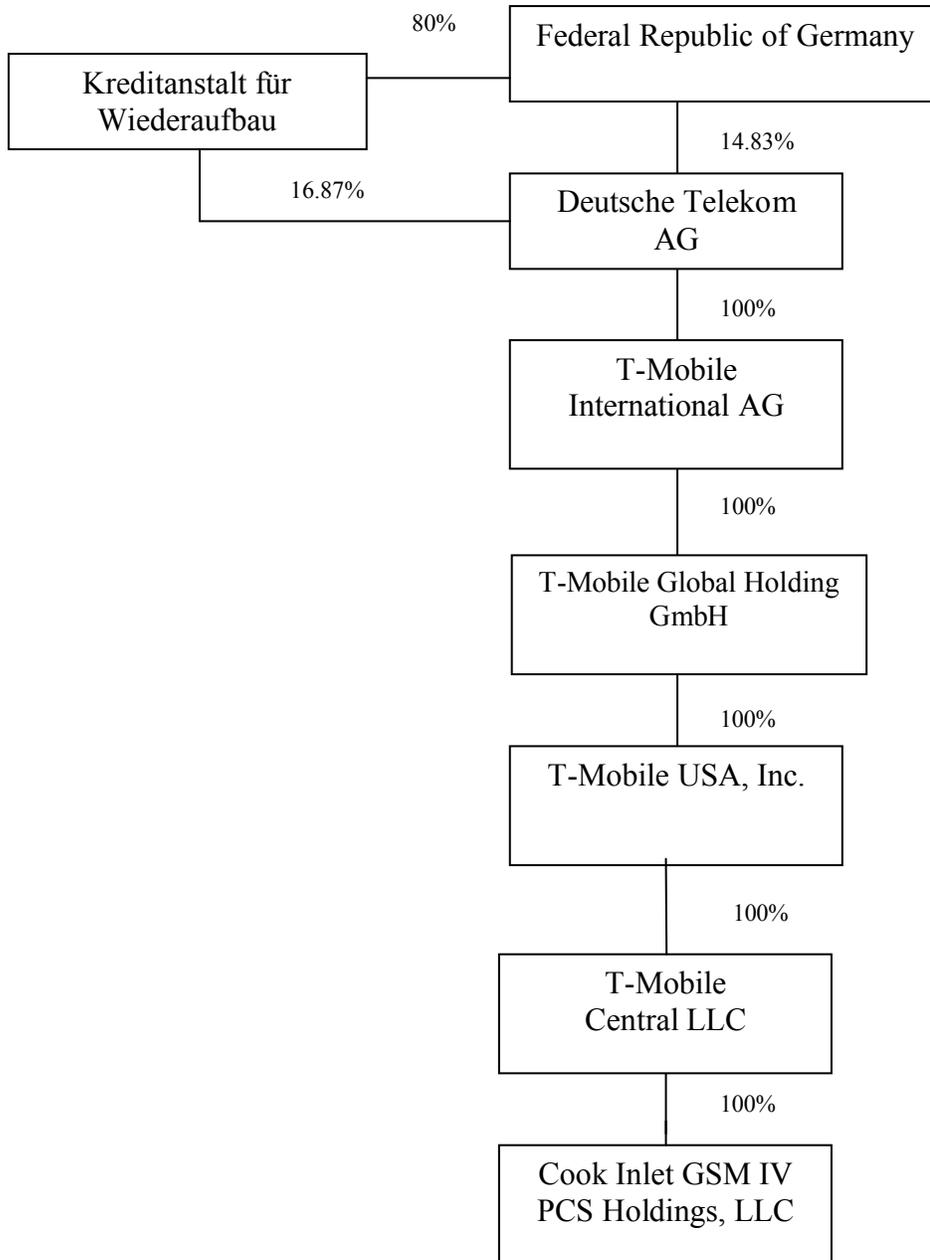
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Dated: October 1, 2008

EXHIBIT A

Ownership



## EXHIBIT B

### Foreign Intermediate-Tier Companies

Since the first time that the Commission approved the foreign ownership of VoiceStream, through corporate reorganization and other *pro forma* internal transactions, certain new holding companies have been introduced into the ownership chain between DT and T-Mobile. The current intermediate-tier companies (the “Intermediate Companies”) include: T-Mobile International AG and T-Mobile Global Holding GmbH.

In accordance with the Foreign Ownership Guidelines of the Commission’s International Bureau,<sup>1</sup> T-Mobile provides the following information about the Intermediate Companies:

1. Request: The country of its incorporation, organization or charter.

Response: All of the Intermediate Companies are organized in Germany.

2. Request: The nationality of all investment principals, officers, and directors.

Response: Each of the Intermediate Companies is wholly-owned, directly or indirectly, by DT. The majority of the officers and directors of each Intermediate Company are residents and nationals of the Federal Republic of Germany. At least one officer or director is a citizen of the United States of America.

3. Request: The country in which its world headquarters is located.

Response: The business address of each of the Intermediate Companies is in Germany. They do not have “world headquarters.”

4. Request: The country in which the majority of its tangible property, including production, transmission, billing, information, and control facilities, is located.

Response: The Intermediate Companies are holding companies. As such, the holding companies do not hold significant tangible property and do not operate any production or other facilities.

5. Request: The country from which it derives the greatest sales and revenues from its operations.

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<sup>1</sup> International Bureau, FCC, *Foreign Ownership Guidelines for FCC Common Carrier and Aeronautical Radio Licenses*, 19 FCC Rcd 22612, 22623 (IB 2004) (“Foreign Ownership Guidelines”).

Response: The Intermediate Companies, as holding companies, do not derive any revenues from operations.

## EXHIBIT C

### T-Mobile's Current Licensee Subsidiaries

T-Mobile's current wholly-owned licensee subsidiaries include: Omnipoint NY MTA License, LLC, Powertel Memphis Licenses, Inc., T-Mobile License LLC (f/k/a VoiceStream PCS BTA I License Corporation), T-Mobile West Corporation (f/k/a VoiceStream Houston, Inc.), VoiceStream Pittsburgh, L.P., Cook Inlet GSM IV PCS Holdings, LLC, SunCom Wireless License Company, LLC and SunCom Wireless Puerto Rico License Company, LLC. Each of these entities is wholly-owned and controlled, directly or indirectly, by T-Mobile.