

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

In the Matter of)	
)	
United Wireless Holdings, Inc.)	File No. ISP-PDR-2021-_____
)	
Petition for Declaratory Ruling Under)	
Section 310(b)(4) of the Communications)	
Act of 1934, as Amended)	

PETITION FOR DECLARATORY RULING

Pursuant to 47 C.F.R. § 1.5000 *et seq.*, United Wireless Holdings, Inc., a Delaware corporation (“Holdings”) and its affiliates SkyTel Spectrum, LLC, a Delaware limited liability company (“SkyTel”) and A2G Communications, LLC, a Delaware limited liability company (“A2G”) (collectively Holdings, SkyTel, and A2G are referred to herein as the “Petitioners”), hereby request a declaratory ruling approving foreign investment of up to 100% by Andrew Fitton, a U.K. citizen, through Fitton & Co., Ltd. (“Fitton & Co.”), a company organized under the laws of the U.K., which he co-owns with other U.K. citizens (this “Petition”). Holdings holds a 100% equity/voting interest in SkyTel and a 50% equity/voting interest in A2G. Petitioners request that this approval include ownership by Holdings of Part 22 Air-Ground Radiotelephone Service (“AGRAS”) facilities nationwide held by A2G as well as SkyTel’s ownership of paging and Narrowband PCS (“NPCS”) licenses.¹

Such a ruling would be consistent with the Commission’s 2008 Declaratory Ruling² authorizing up to 100% indirect foreign ownership by Andrew Fitton in SkyTel for the provision

¹ AGRAS licenses authorize the provision of services to general aviation aircraft.

² International Authorizations Granted, *Public Notice*, DA 09-39 (rel. Jan. 15, 2009) (“2008 Declaratory Ruling”).

of paging and NPCS to the public. Because the Petition for Declaratory Ruling filed in 2008 (the “2008 Petition”) inadvertently did not specifically seek approval for foreign ownership of the AGRAS licenses that were included in the transaction by which SkyTel acquired its paging, NPCS, and AGRAS licenses, that license category was not addressed in the 2008 Declaratory Ruling. As the failure to include the AGRAS licenses was inadvertent and not noted by any party at the time, following the issuance of the 2008 Declaratory Ruling, FCC approval for the related transaction (covering all the licenses, including the AGRAS licenses) was granted³ and these licenses have been owned and operated by Holdings’ affiliates for more than 13 years.

Since grant of the 2008 Declaratory Ruling, the foreign ownership in SkyTel and A2G has been meaningfully reduced due to the transfer of 30% ownership in Holdings to a U.S. citizen. In addition, Mr. Fitton transferred his personal interests into Fitton & Co., Ltd. (“Fitton & Co.”) a family entity over which he retains super-majority equity ownership and voting control. This affiliated family entity, which is under common control with Holdings, is organized in the U.K. As detailed below, the direct foreign ownership and control of Holdings (including directly proportional equity ownership and voting interests) has been reduced from 100% to 70% since the time of the 2008 Declaratory Ruling. Consequently, today, the total indirect foreign equity/voting interest in SkyTel is 70% and the total indirect foreign equity/voting interest in Holdings’ affiliate A2G is 35%.⁴ Grant of this Petition will facilitate the immediate assignment of the SkyTel and A2G licenses to AURA Network Systems OpCo, LLC (“AURA”), an entity with no disclosable foreign ownership. It also would be consistent with FCC policy and precedent finding that foreign

³ See ULS File 0003385370.

⁴ For purposes of Section II, Holdings’ equal to or more than 50% voting interest in both SkyTel and A2G is treated as 100% voting interest in accordance with Rule Section 1.5002(2)(i).

investment serves the public interest by encouraging reciprocal investment opportunities for U.S. companies in countries around the world.

I. HISTORY OF HOLDINGS' FOREIGN OWNERSHIP

The 2008 Declaratory Ruling was granted to Holdings in conjunction with an application whereby SkyTel proposed to acquire from Bell Industries, Inc. ("Bell") a number of wireless facilities and the related FCC authorizations.⁵ The application was accompanied by the 2008 Petition from Holdings, a privately held U.S. corporation in which Andrew Fitton, a citizen of the United Kingdom, then held 100% equity/voting interest. The 2008 Petition sought approval for up to 100% indirect foreign ownership of Holdings' direct and indirect subsidiaries, including SkyTel.⁶ The 2008 Petition stated that "United Sub...proposes to acquire wireless radio service licenses, subject to FCC consent, from Bell Industries, Inc...[t]hus, Holdings seeks the declaratory ruling requested herein in connection with the proposed...acquisition of licenses by United Sub." (The 2008 Petition also requested a declaratory ruling that was granted in connection with the transfer of control of an entity not relevant to this request.) The 2008 Petition referenced the continuation of Bell's paging and narrowband PCS operations following approval of the transaction but did not specifically reference the AGRAS operations.

The 2008 Declaratory Ruling was granted on December 9, 2008.⁷ Like the 2008 Petition, it did not specifically identify the AGRAS licenses included in the Bell/SkyTel assignment application. It stated that the ruling "permits the indirect foreign ownership of SkyTel by Mr. Andrew Fitton (up to and including 100%)."⁸ Further, the 2008 Declaratory Ruling specified that

⁵ See n. 3 *supra*.

⁶ The 2008 Petition identified SkyTel as "United Sub." The 2008 Declaratory Ruling recognized both names. See 2008 Declaratory Ruling at 2 (defining "SkyTel Spectrum LLC" as "United Sub").

⁷ 2008 Declaratory Ruling at 2.

⁸ *Id.*

SkyTel “may accept up to and including an additional aggregate 25 percent indirect foreign equity and/or voting interest from other foreign investors without seeking further Commission approval under section 310(b)(4).”⁹ The assignment application from Bell to SkyTel, which included 58 AGRAS licenses covering facilities across the U.S. as well as nationwide paging and NPCS authorizations, received FCC consent the following day.¹⁰ Upon notification to the FCC of the consummation of that transaction, the AGRAS licenses along with the other licenses in the application were reissued in SkyTel’s name. Over the next decade, SkyTel licensed additional AGRAS facilities, in each case pursuant to an application accompanied by the 2008 Declaratory Ruling.¹¹

In 2010, SkyTel and Stratophone, LLC (“Stratophone”), the only other significant holder of AGRAS licenses in the U.S., submitted a joint request for waiver of certain FCC rules to combine their networks into a new nationwide system.¹² In 2019, each company assigned its AGRAS licenses to A2G, in which Holdings, SkyTel’s parent, and Stratophone each holds a 50% membership interest.¹³ The AGRAS licenses held by A2G collectively authorize the use of thirteen 20 kHz bandwidth channels, representing a total of 0.65 MHz of spectrum, at sites throughout the country.¹⁴

Since issuance of the 2008 Declaratory Ruling, the foreign ownership of Petitioners has been diluted. By 2014, 30% of the equity/voting interest in Holdings had been transferred to

⁹ *Id.*

¹⁰ *See* n. 3, *supra*.

¹¹ *See, e.g.*, ULS File Nos. 0007518295 (requesting new authorization) and 0004552242 (requesting new frequencies to be added to existing authorization pursuant to a waiver).

¹² *See* Waiver Request of Stratophone, LLC and SkyTel Spectrum, LLC, WT Docket No. 09-44 (Feb. 24, 2009).

¹³ Both assignment applications were filed on July 19, 2019: ULS File No 0008710727 (Stratophone) and ULS File No. 0008710635 (SkyTel). SkyTel, Stratophone, Holdings, and A2G now recognize that these assignment applications failed to disclose Holdings’ continued foreign ownership and the resulting indirect foreign ownership in A2G.

¹⁴ A2G is limited to only seven 20 kHz bandwidth channels at sites in proximity to the U.S./Canada border.

Michael Carper, a U.S. citizen, thereby reducing Mr. Fitton's indirect equity/voting interest in Holdings to 70%. In 2016, as part of a tax and estate planning exercise, Mr. Fitton transferred his equity/voting position in Holdings to Fitton & Co, in which he retains 70.6% equity/voting interest while his wife, Rosalind Fitton (8.6% equity/voting interest), together with their children, Nina Fitton, Kit Fitton, William Fitton, and Ellen Fitton (each with 4.9% equity/voting interest), hold a combined 28.4% interest, and his longtime executive assistant, Clair Crabtree, holds a 1% equity/voting interest. All of these persons are U.K. citizens.¹⁵ The 20.58% aggregate indirect interests in Holdings transferred to these other U.K. citizens were within the limit set forth in the 2008 Declaratory Ruling as not requiring further FCC approval. Through Fitton & Co, Mr. Fitton retains the controlling interest in Holdings, and thereby in SkyTel. This was true at the time when SkyTel assigned its AGRAS licenses to A2G, in which Holdings holds a 50% equity/voting interest. Stratophone, which holds the other 50% equity/voting interest in A2G, has 100% ownership by U.S. citizens. As a result, at the time of the assignment of the AGRAS licenses to A2G (and currently), the total indirect foreign equity/voting interest in A2G was (and is) 35% (via Fitton & Co.'s ownership in Holdings and Holdings' ownership in A2G), with 24.71% of that total interest attributable to Mr. Fitton.

The Petitioners now seek a declaratory ruling that approves the current foreign ownership of these entities and includes the AGRAS licenses, which, along with a single NPCS license, will be assigned to AURA, which has no disclosable foreign ownership interests, upon filing of the required applications and consent from the FCC. The AGRAS spectrum already is under AURA control and has been since 2019 when the FCC granted a Long-Term *De Facto* Transfer lease application filed by A2G and AURA.¹⁶ AURA constructed and operates a nationwide AGRAS

¹⁵ None of the United Kingdom citizens other than Mr. Fitton holds a 10% or greater interest in Fitton & Co.

¹⁶ See ULS File No. 0008921242 (granted on December 24, 2019.)

network pursuant to that lease authority. Upon grant of the assignment application from A2G to AURA, AURA will assume both *de jure* and *de facto* control of that spectrum, as well as of the single NPCS channel.

II. INFORMATION REQUIRED BY 47 C.F.R. § 1.5001

Pursuant to 47 C.F.R. § 1.5001, Holdings submits the following information in support of this Petition:

A. Name, FRN, Contact Information, Place of Organization, Type of Business Organization, and Certification Information of Petitioner.¹⁷

United Wireless Holdings, Inc.
FRN: 0016583965
Delaware Corporation
Michael R. Carper
President and Chief Legal Officer
P.O. Box 190
Austin, TX 78767
240-417-7670
mike.carper@unitedwirelessholdings.com

B. Legal Counsel Contact Information¹⁸

Elizabeth R. Sachs
Lukas, LaFuria, Gutierrez & Sachs, LLP
8300 Greensboro Drive, Ste. 1200
Tysons, VA 22102
(703) 584-8678

C. Type of Radio Service Authorization and Associated Application¹⁹

Petitioners seek a declaratory ruling to authorize Holdings' indirect foreign ownership interest in the paging, NPCS, and AGRAS licenses held by SkyTel since grant of the 2008 Declaratory Ruling and the indirect foreign ownership by Holdings of the AGRAS licenses

¹⁷ 47 C.F.R. § 1.5001(a).

¹⁸ *Id.* § 1.5001(b).

¹⁹ *Id.* § 15001(c).

previously held by SkyTel and now held by A2G. This Petition is submitted in connection with applications requesting FCC approval of the transfer of the NPCS and AGRAS licenses from SkyTel and A2G, as applicable, to AURA on an expedited basis following grant of this Petition.

D. Type of Declaratory Ruling²⁰

Petitioners seeks a declaratory ruling under 47 C.F.R. § 1.5000(a)(1).

E. Direct and Indirect Equity and Voting Interests of 10 Percent or More²¹

Direct Ownership in SkyTel

United Wireless Holdings, Inc.
P.O. Box 190, Austin, TX 78767
Delaware Corporation
100% direct equity/voting interest in SkyTel with active role in its management and operation.
Principal Business: Holding company for U.S. wireless communications businesses.

Indirect Ownership in SkyTel

Fitton & Co., Ltd.
12 Old Palace Lane Richmond
Surrey, TW9 1PG
United Kingdom
70% indirect equity interest with 100% voting interest in SkyTel through Holdings with active role in its management and operation.
Principal Business: Family investment holding company.

Andrew Fitton
c/o United Wireless Holdings, Inc., P.O. Box 190, Austin, TX 78767
U.K. citizen
49.40% indirect equity interest with 100% voting interest in Skytel through Fitton & Co. and Holdings with active role in its management and operation.
Principal Business: Investor and business executive.

Michael Carper
c/o United Wireless Holdings, Inc., P.O. Box 190, Austin, TX 78767
U.S. citizen
30% indirect equity/voting interest in SkyTel through Holdings with active role in its management and operation.
Principal Business: Attorney and business executive.

²⁰ *Id.* § 1.5001(d).

²¹ *Id.* § 1.5001(e), (f), and (g).

Direct Ownership in A2G

United Wireless Holdings, Inc.
P.O. Box 190, Austin, TX 78767
Delaware Corporation
50% direct equity interest with 100% voting interest in A2G with active role in its management and operation.
Principal Business: Holding company for U.S. wireless communications businesses.

Stratophone, LLC
12788 SW Lake Fern Circle, Port St. Lucie, FL 34987
Delaware limited liability company
50% direct equity interest with 100% voting interest in A2G with active role in its management and operation.
Principal Business: Air-to-ground wireless communications business owner.

Indirect Ownership in A2G

Fitton & Co., Ltd.
12 Old Palace Lane Richmond
Surrey, TW9 1PG
United Kingdom
35% indirect equity interest with 100% voting interest in A2G through Holdings with active role in its management and operation.
Principal Business: Family investment holding company.

Andrew Fitton
c/o United Wireless Holdings, Inc., P.O. Box 190, Austin, TX 78767
Individual U.K. citizen
24.71% indirect equity interest with 100% voting interest in A2G through Fitton & Co. and Holdings with active role in its management and operation.
Principal Business: Investor and business executive.

Michael Carper
c/o United Wireless Holdings, Inc., P.O. Box 190, Austin, TX 78767
U.S. citizen
15% indirect equity/voting interest in A2G through Holdings with active role in its management and operation.
Principal Business: Investor and business executive.

Albert Gencarella
12788 SW Lake Fern Circle, Port St. Lucie, FL 34987
U.S. citizen
45% indirect equity interest with 100% voting interest in A2G through Stratophone with active role in its management and operation.

Principal Business: Wireless communications business executive and investor.

F. Estimate of Aggregate Foreign Ownership; Statement of Circumstances and Public Interest.²²

Non-U.S. entities and individuals indirectly control 70% of the equity and 100% voting interest in SkyTel and 35% of the equity and 100% voting interest in A2G. *See* Exhibit A.

This Petition is being filed in connection with FCC applications for the assignment of all A2G licenses and a SkyTel NPCC license to AURA, an entity with no disclosable foreign ownership interest. Neither Holdings nor SkyTel anticipate acquiring any equity or voting interest in any additional common carrier wireless licenses. The licenses held by A2G are the subject of a Long-Term *De Facto* Transfer Lease with AURA, which was approved by the Commission on December 24, 2019.

G. Description of Ownership²³

See Exhibit B.

H. Request for Specific Approval²⁴

Petitioner requests specific approval for the following foreign entities and individuals that directly or indirectly hold more than 5% of equity and/or voting interests in Holdings, A2G and/or SkyTel.

Fitton & Co., Ltd.

12 Old Palace Lane Richmond

Surrey, TW9 1PG

United Kingdom

70% direct equity interest with 100% voting interest in Holdings with active role in its management and operation.

35% indirect equity interest with 100% voting interest in A2G with active role in its management and operation.

70% indirect equity interest with 100% voting interest in SkyTel with active role in its management and operation

Andrew Fitton

c/o United Wireless Holdings, Inc., P.O. Box 190, Austin, TX 78767

Individual U.K. citizen

49.42% indirect equity interest with 100% voting interest in Holdings with active role in its management and operation.

²² *Id.* § 1.5001(h)(1).

²³ *Id.* § 1.5001(h)(2).

²⁴ *Id.* § 1.5001(i-k).

24.71% indirect equity interest with 100% voting interest in A2G with active role in its management and operation.

49.42% indirect equity interest and 100% voting interest in SkyTel with active role in its management and operation.

Rosalind Fitton

c/o United Wireless Holdings, Inc., P.O. Box 190, Austin, TX 78767

Individual U.K. citizen

6.16% indirect equity/voting interest in Holdings with no role in its management or operation.

I. Request for Advance Approval²⁵

Petitioners request application of the routine terms and conditions set forth in Section 1.5004 of the Commission's rules. Petitioners request advance approval for Rosalind Fitton to increase her indirect equity interest in Holdings to a 55.58% equity interest with 100% voting interest in the event her husband, Andrew Fitton, predeceases her. In that event, her indirect equity interest in SkyTel would increase to 55.58% with 100% voting interest and her indirect equity interest in A2G would increase to 27.79% with 100% voting interest.

III CONCLUSION

Petitioners respectfully request the FCC to issue a declaratory ruling confirming that it is in the public interest to allow the foreign ownership interests detailed herein.

Respectfully submitted,

United Wireless Holdings, Inc.
SkyTel Spectrum, LLC
A2G Communications, LLC



By: Michael R. Carper


President, United Wireless Holdings, Inc.,
Managing Member SkyTel Spectrum, LLC,
Vice President A2G Communications, LLC

²⁵ *Id.* § 1.5001(i)

DECLARATION OF UNITED WIRELESS HOLDINGS, INC.

I, Michael R. Carper, am President and Chief Legal Officer of United Wireless Holdings, Inc. ("Holdings") and am authorized to make this declaration on behalf of Holdings, SkyTel, and A2G. I certify that to the best of my knowledge and belief the information contained in the foregoing Petition for Declaratory Ruling is true and correct and that the disclosures satisfy each of the pertinent standards and criteria set forth in the Federal Communications Commission rules at 47 C.F.R. § 1.5001 *et seq.*

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.



Michael R. Carper
President and Chief Legal Officer
United Wireless Holdings, Inc.

Dated: September 20, 2021

EXHIBIT A

United Wireless Holdings, Inc. ("Holdings") is a closely held company whose aggregate direct and indirect foreign equity interests were calculated and described in this Petition based on actual equity/voting interests as shown on the ownership chain in Exhibit B below and in accordance with the principles set forth in Section 1.5002 of the FCC rules for purposes of the information provided in Sections II.E, F, H, and I of this Petition. This Petition is being filed to provide the FCC with the current foreign ownership interests of Holdings, its subsidiary SkyTel Spectrum, LLC (SkyTel") and of A2G Communications, LLC ("A2G") and to secure approval of the foreign ownership interest in the Air-Ground Radiotelephone Service ("AGRAS") licenses held by A2G by virtue of Holdings' 50% interest in that entity and of the paging and narrowband PCS ("NPCS") licenses held by SkyTel . The public interest would be served by the grant of this Petition on an expedited basis as the AGRAS and NPCS licenses, immediately upon FCC consent, will be assigned to AURA Network Systems OpCo, LLC ("AURA"), an entity with no disclosable foreign ownership interests that, pursuant to Long-Term *De Facto* Transfer Lease authority granted by the FCC, has deployed a nationwide, modernized nationwide AGRAS network utilizing the A2G spectrum.

Exhibit B: Ownership Structure

