

Lead Application
File No. 0000216961

Attachment 1
Description of Transaction

DESCRIPTION OF TRANSACTION

The instant FCC Form 603 is being filed concurrently with eleven other applications seeking FCC consent to the transfer of control of certain licensees for Personal Communications Services ("PCS"), Wireless Communications Services ("WCS") and point-to-point microwave licenses from Cook Inlet Region, Inc. ("CIRI"), an Alaska Native Regional Corporation organized pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. §§ 1601 *et seq.*, to VoiceStream Wireless Corporation ("VoiceStream"), a Delaware corporation.

Specifically, these transfer of control applications are being filed in connection with the exercise by Cook Inlet GSM, Inc. ("CIGSM") and Cook Inlet Telecommunications, Inc. ("CITI"), each a Delaware corporation and wholly-owned subsidiary of CIRI, of certain rights granted to CIGSM and CITI by VoiceStream in the following agreements (collectively, the "Exchange Agreements"):

- A. Exchange Rights Agreement, dated as of May 3, 1999, by and between Cook Inlet GSM, Inc. and VoiceStream Wireless Corporation (regarding Cook Inlet/VoiceStream PCS, LLC), covering the licenses held by these entities identified on Exhibit A attached hereto (the "CIVS I Licenses");
- B. Exchange Rights Agreement, dated as of February 25, 2000, by and between Cook Inlet GSM, Inc. and VoiceStream Wireless Corporation (regarding Cook Inlet/VS GSM II PCS, LLC), covering the licenses held by these entities identified on Exhibit B attached hereto (the "CIVS II Licenses");
- C. Exchange Rights Agreement, dated as of February 25, 2000, by and between Cook Inlet GSM, Inc. and VoiceStream Wireless Corporation (regarding Cook Inlet/VS GSM III PCS, LLC), covering the licenses held by these entities identified on Exhibit C attached hereto (the "CIVS III Licenses"); and
- D. Exchange Rights Agreement, dated as of December 17, 1998, by and among Western PCS BTA I Corporation, Western Wireless Corporation, Cook Inlet Telecommunications, Inc. and VoiceStream Wireless Corporation (regarding Cook Inlet/VoiceStream PV/SS PCS, L.P.), covering the licenses held by these entities identified on Exhibit D attached hereto (the "CIVS LP Licenses");

In furtherance of the rights and obligations of the parties set forth in the Exchange Agreements, CIRI and VoiceStream have agreed to implement the manner by which the exchange rights of CIGSM and CITI shall be effectuated, as evidenced by that certain Agreement and Notice of Exchange, dated as of September 13, 2000, by and between CIGSM and VoiceStream, and that certain Agreement and Notice of Exchange, dated as of September 13, 2000, by and between CITI and VoiceStream (collectively, the "Exchange Implementation Agreements"). In addition, CIGSM and VoiceStream will negotiate and execute a definitive purchase agreement regarding the exchange of CIGSM's membership interests for VoiceStream stock and CITI and

VoiceStream will negotiate and execute a definitive purchase agreement regarding the exchange of CITI's partnership interest for cash, in accordance with the Exchange Implementation Agreements. The Exchange Implementation Agreements contemplate the following transactions, subject to the Commission's consent to transfer control of the various licensees and applicant licensees that are the subject of this and other related FCC Form 603 transfer of control applications:¹

1. CIGSM will transfer all of its assets to VoiceStream and receive in exchange for such assets a specified number of shares of VoiceStream common stock. The sole assets currently held by CIGSM are controlling membership interests in three limited liability companies.
 - A. CIGSM owns 60.1 percent of all membership interests in Cook Inlet GSM Control LLC ("CIGSM Control"), a Delaware limited liability company.² In addition, CIGSM is the sole Manager of CIGSM Control. CIGSM Control, in turn, owns 50.1 percent of all membership interests in Cook Inlet/VoiceStream PCS Holdings, LLC ("CIVS I Holdings"), a Delaware limited liability company.³ CIVS I Holdings owns 100 percent of all membership interests in Cook Inlet/VoiceStream PCS, LLC ("CIVS I"), a Delaware limited liability company. CIVS I is a PCS licensee.

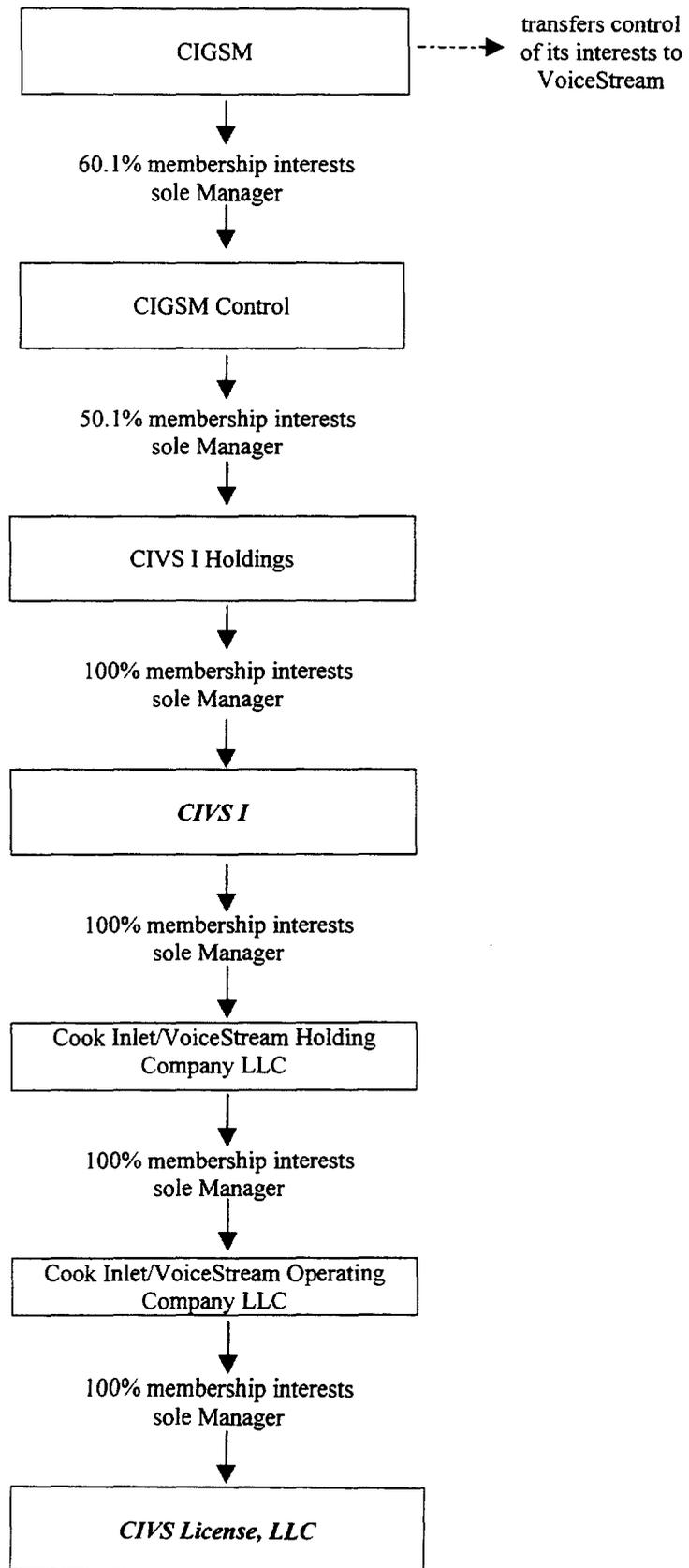
¹ The following information reflects certain corporate reorganizations being implemented by CIRI, CIGSM and CITI (which do not require prior Commission consent) and which will have been effectuated prior to the time Commission consent to these applications is granted and the parties consummate the proposed transaction.

² The remaining 39.9 percent of CIGSM Control's membership interests are owned by Providence Equity Partners III, L.P. ("PEP") (owns 39.605 percent), and Providence Equity Operating Partners III, L.P. ("POP") (owns 0.295 percent). Both PEP and POP are qualified institutional investors.

³ The remaining 49.9 percent of the membership interests in CIVS I Holdings are currently held by VoiceStream PCS BTA I Corporation, a wholly owned subsidiary of VoiceStream.

CIVS I's wholly owned indirect subsidiary, Cook Inlet/VoiceStream License Company, LLC ("CIVS License, LLC"), a Delaware limited liability company, is also a PCS licensee.

The following chart diagrams CIGSM's ownership of CIVS I and CIVS License, LLC as described above. Pursuant to this and other related FCC Form 603 transfer of control applications, CIGSM would be replaced in this ownership structure by *VoiceStream* (the licensees that are the subject of the transfer of control applications are indicated in bold italics for ease of reference):

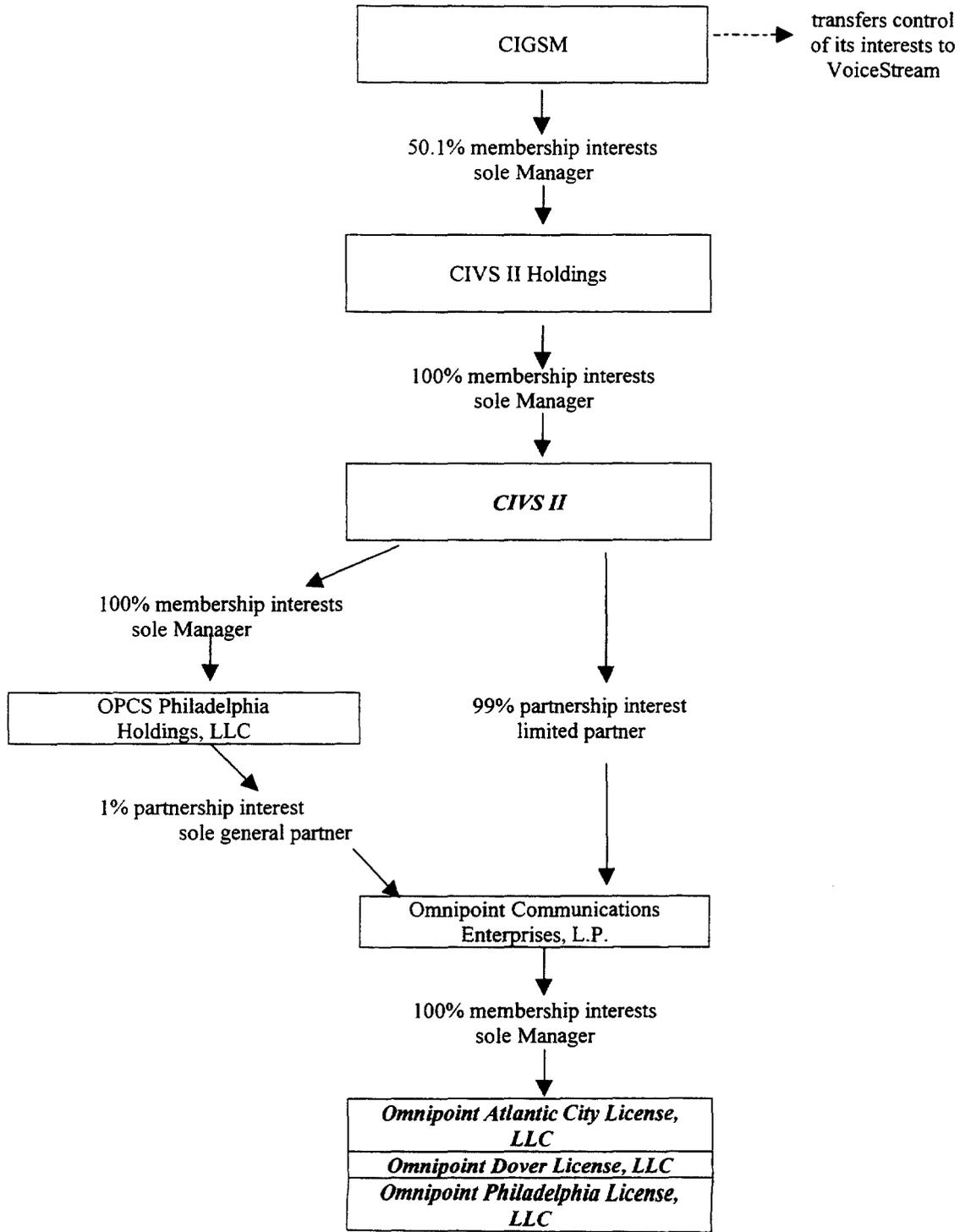


- B. CIGSM owns 50.1 percent of all membership interests in Cook Inlet/VS GSM II Holdings, LLC (“CIVS II Holdings”), a Delaware limited liability company.⁴ CIVS II Holdings, in turn, owns 100 percent of all membership interests in Cook Inlet/VS GSM II PCS, LLC (“CIVS II”), also a Delaware limited liability company. CIVS II is a PCS and WCS licensee.

CIVS II’s wholly owned indirect subsidiaries – Omnipoint Atlantic City License, LLC, Omnipoint Philadelphia License, LLC, and Omnipoint Dover License, LLC – are also PCS licensees.

The following chart diagrams CIGSM’s ownership of CIVS II, Omnipoint Atlantic City License, LLC, Omnipoint Philadelphia License, LLC, and Omnipoint Dover License, LLC as described above. Pursuant to this and other related FCC Form 603 transfer of control applications, CIGSM would be replaced in this ownership structure by VoiceStream (the licensees that are the subject of the transfer of control applications are indicated in bold italics for ease of reference):

⁴ The remaining 49.9 percent of the membership interests in CIVS II Holdings are currently held by Omnipoint Investment, LLC, a wholly owned subsidiary of VoiceStream.



- C. CIGSM owns 50.1 percent of all membership interests in Cook Inlet/VS GSM III Holdings, LLC (“CIVS III Holdings”), a Delaware limited liability company.⁵ CIVS III Holdings, in turn, owns 100 percent of all membership interests in Cook Inlet/VS GSM III PCS, LLC (“CIVS III”), also a Delaware limited liability company. CIVS III is a PCS licensee.

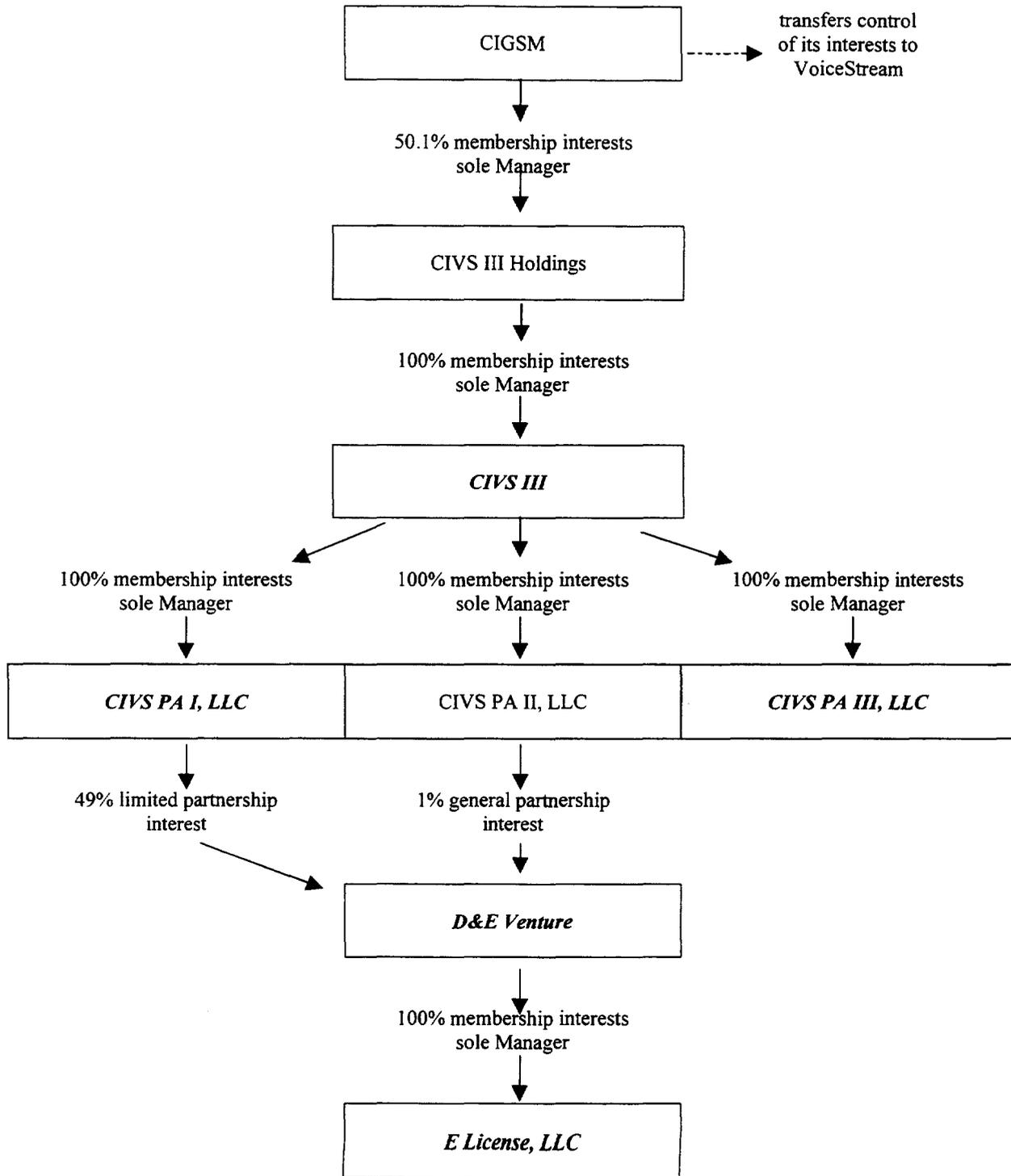
CIVS III’s wholly owned subsidiaries – CIVS PA I, LLC and CIVS PA III, LLC – are also PCS licensees.

CIVS PA I, LLC holds a 49% limited partnership interest in D&E/Omnipoint Wireless Joint Venture, L.P. (“D&E Venture”), and CIVS PA II, LLC, which is also a wholly owned subsidiary of CIVS III, will hold a one percent general partnership interest in D&E Venture.⁶ D&E Venture and its wholly-owned subsidiary, Omnipoint Philadelphia-E. Lancaster E License, LLC (“E License, LLC”), are also PCS licensees.

The following chart diagrams CIGSM’s ownership of CIVS III, CIVS PA I, LLC, CIVS PA II, LLC, CIVS PA III, LLC, D&E Venture and E License, LLC as described above. Pursuant to this and other related FCC Form 603 transfer of control applications, CIGSM would be replaced in this ownership structure by VoiceStream (the licensees that are the subject of the transfer of control applications are indicated in bold italics for ease of reference):

⁵ The remaining 49.9 percent of the membership interests in CIVS III Holdings are currently held by Omnipoint Investment, LLC, a wholly owned subsidiary of VoiceStream.

⁶ CIVS PA II, LLC does not yet hold the general partnership interest in D&E Venture and its indirect interest in E License, LLC; although the Commission has consented to the two transfer of control applications filed to transfer control of D&E Venture and E License, LLC, to CIVS PA II, LLC, the transaction has not yet been consummated. See File Nos. 0000126703 and 0000126706 (granted by public notice released October 4, 2000).



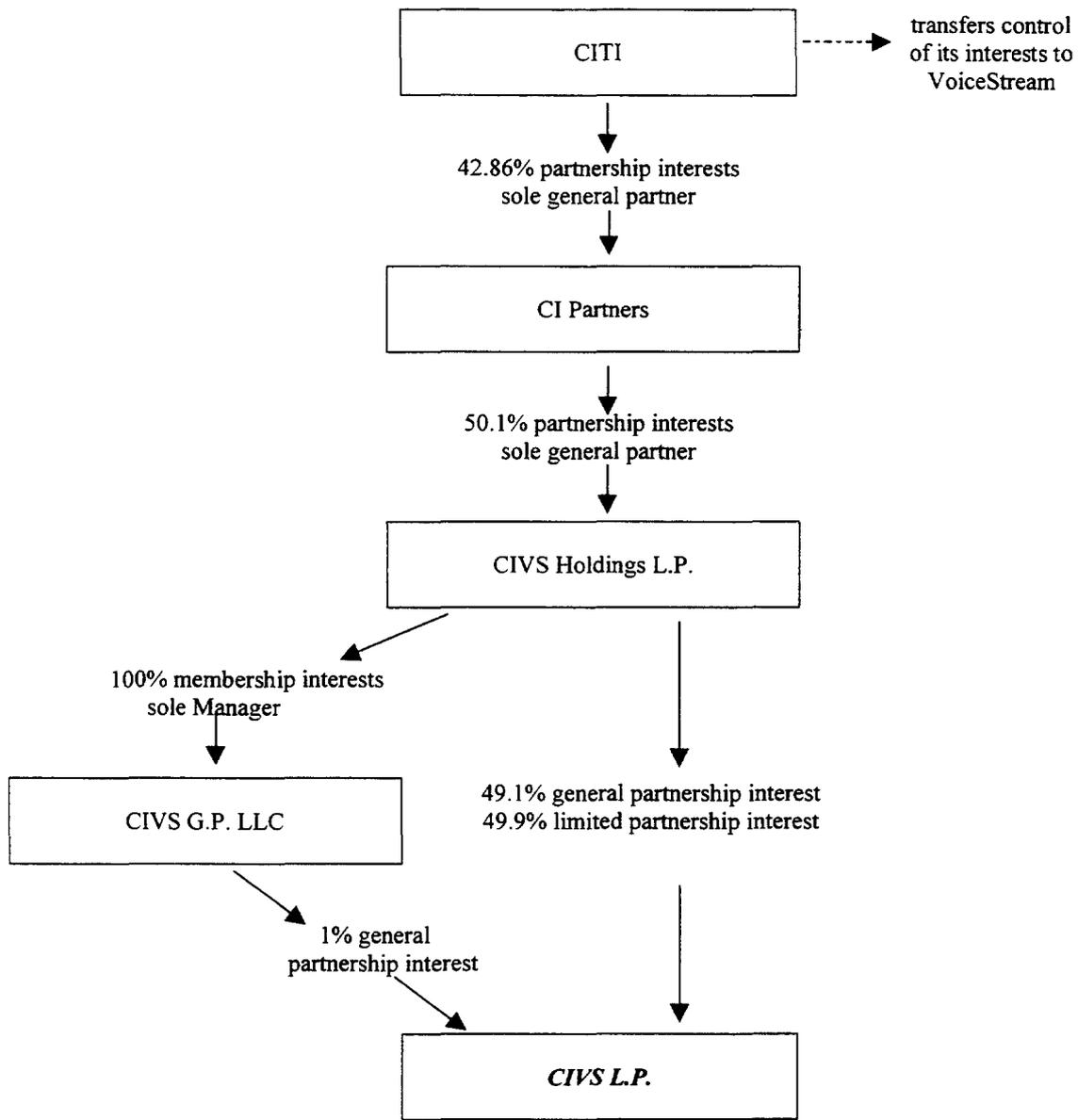
2. D. CITI will transfer all of its partnership interests in Cook Inlet PV/SS PCS Partners, L.P. (“CI Partners”), a Delaware limited partnership, to VoiceStream for cash. CITI holds 42.86% of all partnership interests in CI Partners and is also the sole general partner of CI Partners.⁷ CI Partners, in turn, holds 50.1% of all partnership interests and is the sole general partner of Cook Inlet/VoiceStream PV/SS PCS Holdings, L.P. (“CIVS Holdings L.P.”).⁸

CIVS Holdings L.P., in turn, owns 49.1 percent of all general partnership interests and 49.9 percent of all limited partnership interests in Cook Inlet/VS PV/SS PCS, L.P. (“CIVS L.P.”), a Delaware limited partnership. CIVS Holdings L.P. also owns 100 percent of all membership interests in Cook Inlet/VS PV/SS General Partner, LLC (“CIVS G.P. LLC”), a Delaware limited liability company, which in turn holds a one percent general partnership interest in CIVS L.P. Thus, CIVS Holdings L.P. owns, directly and indirectly, all partnership interests in and is the sole general partner of CIVS L.P. CIVS L.P. is a PCS licensee.

The following chart diagrams CITI’s ownership of CIVS L.P., as described above. Pursuant to this and other related FCC Form 603 transfer of control applications, CITI would be replaced in this ownership structure by VoiceStream (the licensees that are the subject of the transfer of control applications are indicated in bold italics for ease of reference):

⁷ The other partners of CI Partners are limited partners. The first, SSPCS Corporation (“SSPCS”), a Delaware corporation, holds 17.14 percent of all partnership interests. No SSPCS shareholder holds a 10 percent or greater indirect interest in CIWW. The second limited partner of CI Partners, Providence Media Partners L.P. (“PMPLP”), a Delaware limited partnership, holds a 40 percent limited partnership interests. PMPLP is a qualified institutional investor. CI Partners is a control group, structured in accordance with section 24.709 of the Commission’s rules.

⁸ The 49.9 percent limited partnership interest in CIVS Holdings L.P. is currently held by VoiceStream PCS BTA I Corporation, a wholly owned subsidiary of VoiceStream.



* * * * *

The consummation of the transaction contemplated in connection with this and related transfer of control applications would preserve this existing ownership structure, except that each of CIGSM and CITI will be replaced by VoiceStream. Thus, upon the consummation of the transaction, after obtaining the requisite Commission approvals, CIVS II and CIVS III and each of their wholly owned licensee subsidiaries (Omnipoint Atlantic City License, LLC, Omnipoint Philadelphia License, LLC, Omnipoint Dover License, LLC, CIVS PA I, CIVS PA II, CIVS PA III), will become wholly owned subsidiaries of VoiceStream, and VoiceStream will have a controlling interest in CIVS I (and its licensee subsidiary, CIVS License, LLC), two of CIVS III's subsidiaries (D&E Venture and E License, LLC) and CIVS L.P.

Included as attachments to this application are copies of the Exchange Implementation Agreements as executed by the parties (see Attachment 2 and Attachment 3). The parties will supplement this application with copies of the purchase agreements once those agreements have been finalized and executed by the parties.

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**Attachment 1 (continued)
Statement of Public Interest**

STATEMENT OF PUBLIC INTEREST

A. Introduction.

In applying the public interest test under Section 310(d) of the Communications Act of 1934, as amended (the "Act"), 47 U.S.C. §§151 *et seq.*, the Commission considers four overriding questions: (1) whether the transaction would result in a violation of the Act or any other applicable statutory provision; (2) whether the transaction would result in a violation of Commission rules; (3) whether the transaction would substantially frustrate or impair the Commission's implementation or enforcement of the Act or interfere with the objectives of that and other statutes; and (4) whether the transaction promises to yield affirmative public interest benefits.⁹

This transaction satisfies the first three prongs, because it would not result in the violation or frustration of any statutory provision or the Commission's rules. As discussed in the following section, any restrictions on transfer of control of the subject licenses from CIRI to VoiceStream have been preempted by the Department of Defense Appropriations Act of 2001, Public Law No. 106-259.

The fourth prong of this test is also satisfied, because the proposed transaction will produce substantial public interest benefits with no threat to competition. Approval will allow VoiceStream to consolidate under its ownership and control certain gaps in its licensed national footprint. This in turn can be expected to produce administrative and operational efficiencies which VoiceStream cannot presently realize as a non-controlling minority owner of CIVS I, CIVS II, CIVS III and CIVS L.P. (collectively, the "CIVS Entities"). The administrative and operational efficiencies that will accrue from the proposed transfers will enhance VoiceStream's ability to compete with nationwide operators such as AT&T Services, Sprint PCS Group, Verizon Wireless, SBC/BellSouth and Nextel. As the Commission recently reaffirmed, "operators with larger nationwide footprints can achieve economies of scale and increased efficiencies compared to operators with smaller footprints."¹⁰ Such efficiencies permit companies to offer digital-one-rate type plans that reduce prices for consumers.¹¹ The

⁹ See *Applications of Ameritech Corp. and SBC Communications Inc. for Transfer of Control*, CC Docket No. 98-141, Memorandum Opinion and Order, 14 FCC Rcd 14712, 14738-39 ¶¶49-50 (rel. Oct. 8, 1999) ("SBC/Ameritech Order"); *WorldCom/MCI Order*, 13 FCC Rcd at 18,030-33, ¶¶9-12 (citing *Applications of NYNEX Corporation and Bell Atlantic Corporation*, Memorandum Opinion and Order, 12 FCC Rcd 19,985, 19,987 ¶2 & n.2 (1997) ("Bell Atlantic/NYNEX Order")); *Applications of MCI Communications Corporation and British Telecommunications P.L.C.*, Memorandum Opinion and Order, 12 FCC Rcd 15,351, 15,367 P33 (1997) ("BT/MCI Order"); *Application WorldCom, Inc. and MCI Communications Corp. for Transfer of Control*, Memorandum Opinion and Order, 13 FCC Rcd 18025, 18030-33 ¶¶9-12 (1998) ("WorldCom/MCI Order").

¹⁰ *Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services*, FCC 00-289 (rel. Aug. 18, 2000) at 10 ("Fifth CMRS Report").

¹¹ *Fifth CMRS Report* at 10.

Commission also pointed out that current trends in consolidation – *i.e.*, consolidation, such as here, which would result in a geographic expansion of an operator’s service areas – will intensify competition among nationwide providers of wireless services.¹² Further, the subject transfers will produce the benefits that come with consolidation without removing from the marketplace a carrier that presently offers service in direct competition with VoiceStream. The customers served by the systems operating under the licenses to be transferred to VoiceStream presently receive service under the VoiceStream brand name.

B. Description of the Transferor and Transferee.

VoiceStream is a Delaware corporation headquartered in Bellevue, Washington. VoiceStream currently controls PCS licenses covering in excess of 151 million POPs. VoiceStream is the only national or nearly national wireless carrier in the U.S. to own and operate a substantial network using the Global System for Mobile Communications (“GSM”) technology – the world’s most widely used digital standard. Following its mergers with Omnipoint Corporation and Aerial Communications, Inc., VoiceStream became the eighth-largest provider of mobile telephony in the United States.¹³ However, its footprint still falls short of true national reach, making it difficult for VoiceStream to enjoy the same economies of scale and increased efficiencies as its larger competitors.¹⁴

CIRI is an Alaska Native Regional Corporation headquartered in Anchorage, Alaska. Armed with a mission of fostering the economic, social, and cultural well being of its 6,900 Alaskan Native shareholders and their descendents, CIRI has been a national success story for minority participation in radio and television broadcasting and in wireless and wireline telecommunications. With the commencement of operations in the Tulsa, Oklahoma BTA in June 1997, CIRI became the first “designated entity” to launch PCS service in a major market won at auction. CIRI has since grown to offer service in thirty nine markets, including a number of Indian lands. All told, the CIVS Entities have spent \$611,540,028.00 in purchasing PCS licenses at auction. Now, like other smaller companies facing national and global competition, CIRI is seeking to consolidate its interests, in this case with a company of proven success and with whom it has had years of a successful working relationship.¹⁵

Since the first of the four CIVS Entities was created in 1995, VoiceStream has provided technical and other services (including the right to use the VoiceStream name and marks) to each of these entities. Presently, the CIVS Entities hold 144 PCS licenses covering in excess of 100 million POPs. Among the larger markets in which commercial operations have commenced or in which facilities are under construction are Phoenix, Tucson, Seattle/Tacoma,

¹² *Id.* (citing predictions of industry analysts).

¹³ *See Fifth CMRS Report* at App. B, Table 3, p. B-5.

¹⁴ *See Fifth CMRS Report* at 10.

¹⁵ *Fifth CMRS Report* at 10.

Spokane, Tulsa, Philadelphia, Dallas and Chicago.¹⁶ Service is offered under the VoiceStream brand name in these markets.

C. Approval of the Proposed Transfers of Control is Overwhelmingly in the Public Interest.

In evaluating the competitive effects of this transfer of control, the Commission must define the relevant product and geographic markets, examine the current and potential participants in each market and weigh the effects of the transfer of control on competition against anticipated efficiencies and other public interest benefits.¹⁷ In light of the presence of significant competition in the CMRS product market, the Commission should find that the transfer is in the public interest and that any potential adverse effect of the transfer will be negligible and greatly outweighed by the creation of a more efficient and competitive national GSM network.

1. The Relevant Markets.

The product market to consider in evaluating the competitive effects of this transaction is the broader CMRS market including cellular, SMR, 220 MHz, interconnected Business Radio Service, conventional dispatch, paging, broadband and narrowband PCS. In the CMRS Third Report and Order, the Commission determined that all CMRS services are actual or potential competitors with one another and should be regarded as substantially similar for regulatory purposes.¹⁸ Assessing the CMRS market in light of antitrust principles and precedents, the Commission concluded that:

The common characteristic of mobile service customers is their need to communicate electronically on a real-time (or virtually real-time) basis while they are “on the move.” This is a need that cannot be met by conventional wireline telecommunications

¹⁶ CIRI began operations in the Phoenix/Tucson market in November 1998 and in the Seattle/Tacoma and Spokane markets in February 1999. Commercial operations were initiated in Philadelphia by a subsidiary of Omnipoint Corporation in September 1997, and CIRI took over those operations upon consummation of the VoiceStream-Omnipoint-CIRI transaction in February 2000. In Dallas and Chicago, site acquisition and construction is currently under way, with commercial services expected to launch in Dallas in the fourth quarter of this year and Chicago in the first quarter of 2001. Limited service is currently being provided to roamers in both markets, with current coverage consisting primarily of the airports and downtown areas.

¹⁷ See Bell Atlantic/NYNEX Order; *Airtouch Communications, Inc. and Vodafone Group, PLC*, Memorandum Opinion and Order, 14 FCC Rcd 9430 (1999); *Comcast Cellular Holding, Co. and SBC Communications, Inc.*, Memorandum Opinion and Order, 14 FCC Rcd 10,604 (1999).

¹⁸ See *Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services*, Third Report and Order, 9 FCC Rcd 7988, 8009-8012 (1994) (“*CMRS Third Report and Order*”). The Commission did not specifically include PCS in the market analysis because at the time there were no PCS operators offering service but noted that PCS licenses would compete with existing CMRS operators in the future.

services, but it can be met by each service comprising the CMRS marketplace. Subscribers to paging services, cellular services, SMR offerings, mobile data services, 220 MHz services, and Business Radio Services all share this common need for mobile communications.¹⁹

In its recent Fifth Report on competition, the Commission reiterated that a “consumer-oriented” view of wireless services often includes an analysis of offerings outside the umbrella of services specifically designated as CMRS, stating “because licensees of these other spectrum-based services often compete with CMRS providers, as well as with other providers of telecommunications services, the Commission believes that it is important to consider them in the analysis.”²⁰ One or two-way paging or beeper services that feature voice messaging and data display as well as tone-only service may also be an alternative for some consumers.

This market segment has a national geographic scope; while regional carriers may retain some consumer appeal, the emergence of national “one-rate” plans and the resulting industry consolidation have produced a distinct national market.²¹ Consistent with its statements about product markets in the Fourth and Fifth CMRS Reports,²² and its clear finding of consumer benefit in approving VoiceStream’s emergence as a national carrier,²³ the Commission should assess the subject transfers using a national geographic market.

2. The Transfers Will Produce Substantial Pro-Competitive Benefits.

Approval of the subject transfers of control will facilitate development of an advanced national CMRS GSM network that offers consumers a variety of advanced mobile services and seamless national and international roaming. Such a network would improve the competitive landscape by providing a solid competitor to CDMA and TDMA national networks. Additionally, because wireless service operators in 133 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. Roaming on the GSM network is further facilitated through the use of a “smart card” in the handset which contains the subscriber’s personal

¹⁹ *CMRS Third Report and Order* at 8021 (emphasis in original; footnotes omitted).

²⁰ *Fifth CMRS Report* at 3.

²¹ See *Fifth CMRS Report* at 10-12; see also *Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services*, 14 FCC Rcd 10145 at 15-16 (1999) (“*Fourth CMRS Report*”).

²² *Id.*

²³ *Applications of Aerial Communications, Inc., Transferor, and VoiceStream Wireless Holding Corp., Transferee*, Memorandum Opinion and Order, WT Docket No. 00-3, DA 00-730, ¶44 (rel. Mar. 31, 2000) (“*Aerial Order*”); *VoiceStream Wireless Corporation, Omnipoint Corporation, Cook Inlet/VIS GSM II PCS, LLC, and Cook Inlet/VIS GSM III PCS, LLC Seek FCC Consent for Transfer of Control and Assignment of Licenses and Authorizations*, Memorandum Opinion and Order, 14 FCC Rcd 13,421 at ¶46 (August 16, 1999) (“*Omnipoint Order*”).

identification and service profile information such as billing, predefined speed dial numbers and calling services.

Despite these advantages in international roaming capabilities, VoiceStream still faces an uphill battle in competing with the larger, more established carriers in the United States, such as AT&T, Verizon and Sprint PCS, whose national footprints permit relatively low cost, nationwide roaming. This in turn permits these established carriers to offer low-cost, low-price, "one rate" plans. This capability puts VoiceStream at a competitive disadvantage which has been further exacerbated by the fact that certain of these entrenched competitors, such as Verizon and AT&T, own and operate substantial analog adjuncts to their nationwide digital footprints, which enable them to cost-effectively offer multi-mode roaming and thereby further expand their nationwide coverage and cost advantage. Increasing pressure to bring down or eliminate roaming charges and the presence of strong competitors with the capability to offer nationwide roaming has created an atmosphere where a true nationwide GSM network is essential to continue competitive trends. In the Fourth Report on Competition, the Commission recognized that the single most important variable affecting the ability of PCS operators to compete in the mobile telephone market is coverage.²⁴ Approval of these transfer applications is necessary to permit VoiceStream to fill out its national network in order to compete more effectively with existing national carriers.

In the case of Nextel, whose customers are similarly unable to roam easily outside its iDEN network, the Commission regularly determined that facilitation of its national network would serve the public interest, convenience and necessity. In granting consent of Motorola, Inc. to assign 800 MHz licenses to Nextel, the Wireless Bureau agreed that "acquisition of additional licenses is likely to promote competition by bringing Nextel one step closer to a nationwide all-digital, integrated mobile communications network."²⁵ In granting approval for the transfer of OneComm to Nextel, the Bureau determined that Nextel's nationwide network would foster overall competition in the CMRS marketplace, promoting technological innovation and providing a check on price increases.²⁶

The Commission relied on similar reasoning when it approved the transfers of control needed to effectuate the VoiceStream-Omnipoint and VoiceStream-Aerial mergers. Specifically, the Commission agreed that "GSM subscribers will benefit from the expanded footprint to be offered by VoiceStream, and that all mobile phone users needing access throughout the nation will benefit significantly from the creation of another competitor with a near-nationwide footprint."²⁷ The Commission again acknowledged that competition would be promoted by development of an additional nationwide PCS system.²⁸ Grant of the subject

²⁴ *Fourth CMRS Report* at 31.

²⁵ *Applications of Motorola, Inc. for Consent to Assign 800 MHz Licenses to Nextel Communications, Inc.*, 10 FCC Rcd 7783, 7785 (Wire. Tel. Bur. 1997).

²⁶ *Applications of Nextel Communications, Inc. for Transfer of Control of OneComm Corporation, and C-Call Crop.*, 10 FCC Rcd 3361, 3366 (Wire. Tel. Bur. 1995).

²⁷ *Aerial Order* at ¶44.

²⁸ *Omnipoint Order* at ¶32.

transfers of control will therefore benefit not only GSM users, but also non-GSM users who will enjoy the lower prices and innovative service offerings that will naturally flow from increased competition.

Expanding the geographic reach of the combined company will also have the effect of making consumers better able to evaluate and take advantage of competitive offerings. The Commission has held that wide-area CMRS combinations that place more territory under unified control “are likely to increase uniformity and reduce the occurrence of uncoordinated offerings and pricing. For one carrier to have a broader geographical reach might improve market conditions by reducing customer confusion and making the totality of available price plans more comprehensible. This would enable customers to make more informed decisions.”²⁹

3. The Transfers Will Not Cause Any Anti-competitive Effects.

It has been the Commission’s general policy “to permit the aggregation of CMRS spectrum and interests therein up to the limits permitted under the spectrum cap rules, provided that such aggregation neither reduces actual competition nor stymies the development of competition in any market.”³⁰ This policy is clearly applicable here.

First, the proposed transfers do not implicate the spectrum cap. Specifically, spectrum consolidation remains within the 45 MHz (or 55 MHz, as applicable) spectrum cap in all of the 62 markets where overlap occurs. Because the subject licenses are already attributable to VoiceStream for spectrum cap purposes as a result of its 49.9 percent interest in the CIVS Entities, any overlaps have already been taken into account and disclosed to the Commission in prior transactions where the spectrum cap was implicated.

Second, there will be no adverse effect on competition. The strength of existing and future competition from multiple wireless telecommunications service providers in each of the markets in which the CIVS Entities hold licenses will ensure that there are no anti-competitive effects on consumers resulting from the Commission’s grant of these transfer of control applications. Indeed, the transfer of control of these licenses will not significantly reduce the number of competitors in these markets. In eighty two of the 144 BTAs in which a CIVS Entity is licensed, VoiceStream does not currently hold any wireless license. Therefore, in these markets, the impact of the transfer of control would be simply to substitute one competitor for another. Even in the sixty two markets in which both VoiceStream and one of the CIVS Entities currently hold PCS licenses, customers would not be adversely affected by the transfer of control of the CIVS Entities’ licenses in those market to VoiceStream for two reasons. Currently, the customers who receive wireless service from a CIVS Entity in these markets receive that service under the VoiceStream brand name; thus, the practical consequence of this transaction will be

²⁹ *Pacific Telesis Group Transferor, and SBC Communications, Inc. Transferee, for Consent to Transfer Control of Pacific Telesis Group and its Subsidiaries*, 12 FCC Rcd 2624, 2658 (1997).

³⁰ *Omnipoint Order* at ¶26, citing: *In the Matter of the 1998 Biennial Regulatory Review, Spectrum Aggregation Limits for Wireless Telecommunications Carriers*, Report and Order, 15 FCC Rcd 9219 (Sept. 15, 1999).

invisible to these customers. In addition, these customers still have a number of competing service providers from which to choose. In most major metropolitan markets, where the construction of new PCS and other wireless systems continues at a rapid pace, there are as many as five or six operational carriers from which a customer can choose. Even in the smallest or rural markets, there are at least two other providers, both of which are well-established cellular providers.

Third, from a consumer's perspective, the proposed transfers will not eliminate a competitor – they will simply make an existing competitor a stronger and more effective player. VoiceStream has a reciprocal resale arrangement with each of the CIVS Entities and, currently, customers who receive service on any PCS system licensed to either VoiceStream or the CIVS Entities receive such service under the VoiceStream brand name. VoiceStream and each of the CIVS Entities, therefore, do not exert the level of price discipline on each other that other competitors using separate brand identifiers currently exert on each of VoiceStream and the CIVS Entities. At the same time, the consolidation of VoiceStream with the CIVS Entities will improve VoiceStream's ability to compete with the innovative pricing plans offered by giant national players in the wireless telecommunications market.

D. Conclusion.

In light of the presence of significant competition in both the national CMRS product market and individual markets, the Commission should find that the subject transfers of control are in the public interest and that any potential adverse effects will be negligible and greatly outweighed by the creation of a more efficient and competitive national GSM network. Accordingly, the Commission should find that approval of the subject transfers of control will serve the public interest, convenience and necessity, and accordingly grant the associated applications.

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**Attachment 1 (continued)
Foreign Ownership and Eligibility**

FOREIGN OWNERSHIP OF TRANSFEREE

As explained below, VoiceStream's current foreign ownership remains within parameters established by recent Commission orders pertaining to foreign ownership. As of the date of filing of the CIRI/VoiceStream transfer of control applications, Hutchison Telecommunications PCS (USA) Limited ("Hutchison"), a British Virgin Islands corporation, holds or has the right to hold 55,899,252 shares of VoiceStream capital stock (29,671,666 shares of common stock presently held plus 7,606 shares of non-voting junior preferred stock convertible to 26,227,586 shares of common stock).³¹

Hutchison's primary business is to hold stock in VoiceStream. Hutchison, in turn, is a wholly-owned subsidiary of Hutchison Whampoa Limited ("HWL"), a Hong Kong limited liability holding company. HWL is principally engaged in seven core businesses: telecommunications, property, ports, retail, manufacturing, energy and infrastructure. It holds telecommunications interests in Hong Kong, Great Britain, and southeast Asia. Aside from its interest in VoiceStream, however, it holds no other interests in FCC-regulated businesses. On a fully diluted basis,³² HWL currently holds a 20.56 percent economic interest and 13.59 percent voting interest in VoiceStream.

Pursuant to the *Omnipoint Order*³³ and the *Aerial Order*,³⁴ approving VoiceStream's recent mergers with Omnipoint Corporation and Aerial Communications, Inc., respectively, Hutchison's interest in VoiceStream is permitted to rise to 30.6 percent without further Commission approval. Under these orders, Hutchison's interest also establishes a baseline above which VoiceStream may accept additional foreign investment by non-Hong Kong, non-U.S. interests up to 25 percent without prior Commission approval. Foreign investment in VoiceStream remains within the parameters set by these orders.

For more information regarding the ownership of VoiceStream, please see VoiceStream's FCC Ownership Disclosure Form 602, filed September 14, 2000.

³¹ This includes shares held by Hutchison's affiliate, Hutchison Telecommunications Holdings (USA) Limited.

³² On September 6, 2000, Deutsche Telekom AG made a \$5 billion investment in VoiceStream, which is more fully described in VoiceStream's FCC Ownership Disclosure Form 602, filed September 14, 2000.

³³ *Omnipoint Order* at ¶7.

³⁴ *Aerial Order* at ¶¶11-12.

ELIGIBILITY FOR TRANSFER OF CONTROL OF LICENSES

Except with respect to the D and E Block licenses held by D&E Venture and E License, LLC, all of the PCS licenses controlled by CIVS I, CIVS II, CIVS III, CIVS L.P. and their respective subsidiaries are C and F Block licenses. Section 24.839 of the Commission's rules, 47 C.F.R. § 24.839, prohibits the assignment or transfer of control of any C or F Block PCS license if the application to assign or transfer the license is filed within five years of the initial grant unless the applicant assignee itself qualifies to hold a C or F Block license under Section 24.709 of the Commission's rules, 47 C.F.R. § 24.709. In addition, Section 1.2111 of the Commission's rules, 47 C.F.R. § 1.2111, requires that certain unjust enrichment payments be made upon assignment or transfer of a C or F Block license to an entity that qualifies for a lower level of bidding credit or less favorable installment payment terms than the original licensee.

On August 9, 2000, H.R. 4576, The Department of Defense Appropriations Act of 2001, Public Law No. 106-259 (the "DoD Appropriations Act") was enacted. Section 8149 of the DoD Appropriations Act amends the Alaska Native Claims Settlement Act and creates a specific exception to the Commission's rules limiting the transfer or assignment of C and F Block PCS licenses, as follows:

An Alaska Native regional corporation organized pursuant to the Alaska Native Claims Settlement Act, or an affiliate thereof, that holds a Federal Communications Commission license in the personal communications service as of the date of enactment of this section and has either paid for such license in full or has complied with the payment schedules for such license shall be permitted to transfer or assign without penalty such license to any transferee or assignee. No economic penalties shall apply to any transfer or assignment authorized under this section. Any amounts owed to the United States for the initial grant of such licenses shall become immediately due and payable upon the consummation of any such transfer or assignment. Any application for such a transfer or assignment shall be deemed granted if not denied by the Commission within 90 days of the date on which it was initially filed. Any provision of law or regulation to the contrary is hereby amended.

CIRI is an Alaska Native Regional Corporation organized pursuant to the Alaska Native Claims Settlement Act. CIRI's affiliates, including all of the transferor and licensee entities that are the subject of this and related FCC Form 603 transfer of control applications, held all of their C and F Block licenses and have either paid in full the original auction price or complied with the installment payment requirements for such licenses as of August 9, 2000.³⁵

³⁵ CIRI and its affiliates separately have four applications for assignment and two applications for transfer of control pending at the Commission.

First, a group of four related assignment applications is pending:

- File No. 0000192927, to assign *pro forma* a 20 MHz disaggregated portion of the C-Block PCS license for the Salina, Kansas market, Market No. BTA396, Call Sign WPOJ799, from CIVS III to Cook Inlet Region of Georgia, Inc. ("CIRG"), a Georgia corporation and a wholly owned subsidiary of CIRI (filed July 24, 2000);
- File No. 0000192930, to assign *pro forma* the F-Block PCS license for the Pittsburg-Parsons, Kansas market, Market No. BTA349, Call Sign KNLG708, from CIVS L.P. to CIRG (filed July 24, 2000);
- File No. 0000192932, to assign *pro forma* a 10 MHz disaggregated portion of the C-Block PCS license for the El Dorado-Magnolia-Camden, Arkansas market, Market No. BTA125, Call Sign WPOJ734, from CIVS I to CIRG (filed July 24, 2000); and
- File No. 0000192493, to assign *pro forma* a 10 MHz disaggregated portion of the C-Block PCS license for the Sierra Vista, Arizona market, Market No. BTA420, from CIVS I to CIRG (filed July 24, 2000).

CIRG is a qualified designated entity and a "very small business" under the Commission's rules; the ownership interests in CIRG are not being sold to VoiceStream. Therefore, the instant transfer of control applications have no impact on the status of these four licenses or the pending assignment applications; the transactions pursuant to which these applications were filed will be consummated separately, upon receipt of the Commission's approval.

Second, a group of two transfer of control applications, which relate to D and E Block PCS licenses, was recently granted by the Commission, File Nos. 0000126703 and 0000126706 referenced above in footnote 6. These applications, therefore, are not directly impacted by the Commission's ownership requirements and restrictions on transfer and assignment, the DoD Appropriations Act or the instant transfer of control applications. The transaction pursuant to which these applications were filed will be consummated separately. The transferee entity involved in that transaction, CIVS PA II, LLC, also controls two of the subject licensees of the instant transfer of control applications. Thus, upon the grant of the two transfer of control applications by the Commission, CIVS PA II, LLC will own a general partnership interest in D&E Venture and an indirect interest in its subsidiary, E License, LLC. Subsequently, upon the grant of the instant transfer of control applications, CIVS PA II, LLC, D&E Venture and E License, LLC will be owned and controlled by VoiceStream.

Third, a *pro forma* assignment application is pending, File No. 0000126722, to assign the C1-Block PCS license for the Reading, Pennsylvania market, Market No. B370, Call Sign KNLF719, from CIVS II to CIVS PA III, LLC. The Reading license, currently held by CIVS II, is covered by the legislative exception, such that control of the Reading license may be transferred to VoiceStream whether held by CIVS II or CIVS PA III, LLC. As with the second group of applications, the transaction pursuant to which this application was filed will be consummated separately, upon receipt of the Commission's approval. The assignee of the (continued...)

As a result, all of the C and F Block licenses held directly or indirectly by CIVS I, CIVS II, CIVS III and CIVS L.P. may be transferred to VoiceStream pursuant to this statutory provision and in accordance with the instant transfer of control applications and related applications, without restriction. In addition, as a result of the transfer of these licenses, VoiceStream will not be subject to the Commission's unjust enrichment payment obligations. Upon the Commission's approval or deemed approval of these transfer of control applications and consummation of the transactions contemplated by these applications, CIVS I, CIVS II, CIVS III and CIVS L.P. will be obligated to pay in full the outstanding balance, if any, on the original auction amount for any of the C and F Block licenses held by them and their licensee subsidiaries, and each will pay such amounts simultaneously with consummation of these transactions.

license, CIVS PA III, LLC, is also one of the subject licensees of the instant transfer of control applications. Thus, upon the Commission's grant of the assignment application, the Reading license will be assigned by CIVS II to CIVS PA III, LLC. Subsequently, upon the grant of the instant transfer of control applications, CIVS PA III, LLC will be indirectly owned and controlled by VoiceStream.

**Lead Application
File No. 0000216961**

**Exhibits A through D
CIVS I Licenses
CIVS II Licenses
CIVS III Licenses
CIVS L.P. Licenses**

EXHIBIT A

CIVS I Licenses

CIVS I currently directly holds the following PCS licenses:

Call Sign	Market/BTA
WPOJ732	Baton Rouge, Louisiana/BTA 032
WPOJ733	Cape Girardeau-Sikeston, Missouri/BTA 066
WPOJ734	El Dorado-Magnolia-Camden, Arkansas/BTA 125
WPOJ735	Flagstaff, Arizona/BTA 144
WPOJ736	Hammond, Louisiana/BTA 180
WPOJ738	Lafayette-New Iberia, Louisiana/BTA 236
WPOJ740	Prescott, Arizona/BTA 362
WPOJ741	Rolla, Missouri/BTA 383
WPOJ742	Sierra Vista-Douglas, Arizona/BTA 420
WPOJ744	Yuma, Arizona/BTA 486
WPOL278	Omaha, Nebraska/BTA 332
WPOL279	Poplar Bluff, Missouri/BTA 355

CIVS I's subsidiary, CIVS License, LLC, directly holds the following PCS licenses:

Call Sign	Market/BTA
WPOJ737	Jacksonville, Illinois/BTA 213
WPOJ739	Mattoon, Illinois/BTA 286
WPOJ743	Waco, Texas/BTA 459
WPOK571	Springfield, Illinois/BTA 426
WPOL271	Champaign-Urbana, Illinois/BTA 071
WPOL272	Chicago, Illinois/BTA 078
WPOL273	Dallas-Fort Worth, Texas/BTA 101
WPOL274	Decatur-Effingham, Illinois/BTA 109
WPOL275	Kankakee, Illinois/BTA 225
WPOL276	Longview-Marshall, Texas/BTA 260
WPOL277	Michigan City-La Porte, Indiana/BTA 294
WPOL280	Rockford, Illinois/BTA 380
WPOL281	Shreveport, Louisiana/BTA 419
WPOL282	Texarkana, Texas/Arkansas/BTA 443
WPOL283	Tyler, Texas/BTA 452

EXHIBIT B

CIVS II Licenses

CIVS II directly holds the following PCS licenses:

Call Sign	Market/BTA
KNLF945	Albany-Tifton, GA/BTA 006
KNLF946	Augusta, Georgia/BTA 026
KNLF947	Macon-Warner Robins, Georgia/BTA 271
KNLF948	Savannah, Georgia/BTA 410
KNLF949	Birmingham, Alabama/BTA 044
KNLF950	Decatur, Alabama/BTA 108
KNLF951	Gadsden, Alabama/BTA 158
KNLF952	Huntsville, Alabama/BTA 198
KNLF956	Presque Isle, Maine/BTA 363
KNLH320	Providence-Pawtucket, Rhode Island-New Bedford-Fall River, Massachusetts/BTA 364
KNLF959	Goldsboro-Kinston, North Carolina/BTA 165
KNLF960	Williamson, West Virginia-Pikesville, Kentucky/BTA 474
KNLF961	Colorado Springs, Colorado/BTA 089
KNLF966	Waco, Texas/BTA 459
KNLF963	Baltimore, Maryland/BTA 029
KNLF967	Des Moines, Iowa/BTA 111
KNLF964	Norfolk-Virginia Beach-Newport News- Hampton, Virginia/BTA 324
KNLH329	Battle Creek, Michigan/BTA 033
KNLH333	Jackson, Michigan/BTA 209
KNLF969	Adrian, Michigan/BTA 005
KNLH336	Terre Haute, Indiana/BTA 442
KNLH334	Muncie, Indiana/BTA 309
KNLH328	Anderson, Indiana/BTA 015
KNLH331	Columbus, Indiana/BTA 093
KNLH335	Richmond, Indiana/BTA 373
KNLH337	Vincennes-Washington, Indiana/BTA 457
KNLH330	Benton Harbor, Michigan/BTA 039
KNLH332	Danville, Illinois/BTA 103
KNLF970	Detroit, Michigan/BTA 112
KNLF972	Ft. Wayne, Indiana/BTA 155

KNLF973	Grand Rapids, Michigan/BTA 169
KNLF974	Flint, Michigan/BTA 145
KNLH338	Lansing, Michigan/BTA 241
KNLF976	South Bend-Mishawaka, Indiana/BTA 424
KNLF977	Toledo, Ohio/BTA 444
KNLF979	Miami-Ft. Lauderdale, Florida/BTA 293
KNLF980	West Palm Beach-Boca Raton, Florida/BTA 469
KNLF981	Nashville, Tennessee/BTA 314
KNLF984	Coos Bay-North Bend, Oregon/BTA 097
KNLF986	San Juan, Puerto Rico/BTA 488
KNLF987	Cape Girardeau-Sikeston, Missouri/BTA 066
KNLH339	Carbondale-Marion, Illinois/BTA 067
KNLH340	Jefferson City, Missouri/BTA 217
KNLH341	Poplar Bluff, Missouri/BTA 355
KNLH342	Rolla, Missouri/BTA 383
KNLH343	West Plains, Missouri/BTA 470
KNLF989	Peoria, Illinois/BTA 344
KNLF990	Springfield, Missouri/BTA 428
KNLF991	Wichita, Kansas/BTA 472
KNLF985	San Antonio, Texas/BTA 401
KNLF889	Los Angeles, California/BTA 262
KNLG274	Reno, Nevada/BTA 372
KNLG275	Santa Barbara-Santa Maria, California/BTA 406
KNLG276	Washington, DC/BTA 461
KNLG277	Sarasota-Bradenton, Florida/BTA 408

CIVS II directly holds the following WCS licenses:

Call Sign	Market/MEA
KNLB208	Buffalo, New York/MEA 030
KNLB302	Cleveland, Ohio/MEA 015
KNLB303	Cleveland, Ohio/MEA 015
KNLB304	Detroit, Michigan/MEA 016
KNLB305	Chicago, Illinois/MEA 018
KNLB306	Kansas City, Missouri/MEA 029
KNLB307	Denver, Colorado/MEA 033
KNLB308	Hawaii/MEA 048
KNLB309	Guam-Northern Mariana Islands/MEA 049

**FCC Form 603
ATTACHMENT 1
Exhibit B
Page 3**

CIVS II's subsidiary, Omnipoint Atlantic City License, LLC, directly holds the following PCS license:

Call Sign	Market/BTA
KNLF710	Atlantic City, New Jersey/BTA 025

CIVS II's subsidiary, Omnipoint Dover License, LLC, directly holds the following PCS license:

Call Sign	Market/BTA
KNLF712	Dover, Delaware/BTA 116

CIVS II's subsidiary, Omnipoint Philadelphia License, LLC, directly holds the following PCS license:

Call Sign	Market/BTA
KNLF715	Philadelphia, Pennsylvania-Wilmington, Delaware-Trenton, New Jersey/BTA 346

EXHIBIT C

CIVS III Licenses

CIVS III directly holds the following PCS licenses:

Call Sign	Market/BTA
WPOJ782	Alpena, Michigan/BTA 011
WPOJ783	Ashtabula, Ohio/BTA 021
WPOJ784	Bangor, Maine/BTA 030
WPOJ785	Benton Harbor, Michigan/BTA 039
WPOJ786	Buffalo-Niagara Falls, New York/BTA 060
WPOJ787	Canton-New Philadelphia, Ohio/BTA 065
WPOJ788	East Liverpool-Salem, Ohio/BTA 122
WPOJ789	Elkhart, Indiana/BTA 126
WPOJ790	Erie, Pennsylvania/BTA 131
WPOJ793	Kokomo-Logansport, Indiana/BTA 233
WPOJ795	Lebanon-Claremont, New Hampshire/BTA 249
WPOJ796	Mansfield, Ohio/BTA 278
WPOJ797	Pittsfield, Massachusetts/BTA 351
WPOJ798	Rochester, New York/BTA 379
WPOJ799	Salina, Kansas/BTA 396
WPOJ843	Ft. Wayne, Indiana/BTA 155
WPOJ844	Sault Ste. Marie, Michigan/BTA 409
WPOJ845	South Bend-Mishawaka, Indiana/BTA 424
WPOJ846	Springfield-Holyoke, Massachusetts/BTA 427
WPOJ848	Youngstown-Warren, Ohio/BTA 484
WPOL260	Adrian, Michigan/BTA 005
WPOL261	Battle Creek, Michigan/BTA 033
WPOL264	Grand Rapids, Michigan/BTA 169
WPOL265	Jackson, Michigan/BTA 209
WPOL268	Muskegon, Michigan/BTA 310
WPOL270	Sandusky, Ohio/BTA 403
WPOL262	Detroit, Michigan/BTA 112
WPOL263	Flint, Michigan/BTA 145
WPOL266	Kalamazoo, Michigan/BTA 223
WPOL267	Mt. Vernon-Centralia, Illinois/BTA 308
WPOL269	St. Louis, Missouri/BTA 394

CIVS III's subsidiary, CIVS PA I, LLC, directly holds the following PCS licenses:

Call Sign	Market/BTA
WPOJ792	Harrisburg, Pennsylvania/BTA 181
WPOJ294	Lancaster, Pennsylvania/BTA 240
WPOJ847	York-Hanover, Pennsylvania/BTA 483

CIVS III's subsidiary, CIVS PA III, LLC, directly holds* the following PCS license:

Call Sign	Market/BTA
KNLF719	Reading, Pennsylvania/BTA 370

CIVS III's subsidiary,* D&E Venture, directly holds the following PCS licenses:

Call Sign	Market/BTA
KNLF911	Harrisburg, Pennsylvania/BTA 181
KNLG721	York-Hanover, Pennsylvania/BTA 483

CIVS III's subsidiary,* E License, LLC, directly holds the following PCS license:

Call Sign	Market/BTA
KNLF983	East Lancaster, Pennsylvania/BTA 240

* Subject to Commission approval. See File Nos. 0000126722, 0000126703 and 0000126706.

EXHIBIT D

CIVS L.P. Licenses

CIVS L.P. directly holds the following PCS licenses:

Call Sign	Market/BTA
KNLF474	Aberdeen, Washington/BTA 002
KNLF475	Bartlesville, Oklahoma/BTA 031
KNLF476	Coffeyville, Kansas/BTA 088
KNLF477	Muskogee, Oklahoma/BTA 311
KNLF478	Port Angeles, Washington/BTA 356
KNLF480	Spokane, Washington/BTA 425
KNLF481	Tulsa, Oklahoma/BTA 448
KNLF482	Walla Walla, Washington-Pendleton, Oregon/BTA 460
KNLF483	Wenatchee, Washington/BTA 468
KNLF486	Yakima, Washington/BTA 482
KNLF797	Bremerton, Washington/BTA 055
KNLF908	Bellingham, Washington/BTA 036
KNLG362	El Paso, Texas/BTA 128
KNLG706	Cincinnati, Ohio/BTA 081
KNLG707	Phoenix, Arizona/BTA 347
KNLG709	Seattle-Tacoma, Washington/BTA 413
KNLG710	Temple-Killeen, Texas/BTA 441
KNLG711	Tuscon, Arizona/BTA 447

In addition, CIVS L.P. directly holds two point-to-point microwave licenses: WPOQ800 and WPOQ801.