

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

In re Applications of )  
)  
Deutsche Telekom AG, )  
T-MOBILE USA, INC, Transferor, ) WT Docket No. 11-65  
and AT&T INC, Transferee, )  
)  
)  
)  
Applications for Transfer of Control ) File Nos. 0004669383 et al.  
Of Licenses and Authorizations )  
)

To: The Commission

**Reply**

David Van Valkenburgh hereby replies to the "Joint Opposition to Petitions to Deny and Comments," (Joint Opposition) filed by AT&T INC, T-Mobile USA INC. and Deutsche Telekom AG, (Applicants) in the above-captioned docket

There has been a material change in the facts surrounding the above-referenced applications. I respectfully request that the Commission accept this untimely filed reply.

**I. BACKGROUND**

In accordance with Pleading Cycle Established by the FCC

A. David Van Valkenburgh filed a Petition to Deny on May 31, 2011

B. Applicants filed Joint Opposition on June 10, 2011

C. David Van Valkenburgh Filed a Reply to the Joint Opposition on June 20, 2011

D. In the days since Applicants filed their Joint Opposition, problems have occurred with LightSquared

I. Tests revealed interference with equipment used by the Coast Guard, FAA and NASA<sup>1</sup>

II. The FCC has asked for comment on LightSquared interference to GPS<sup>2</sup>

III. Lawmakers in the House of Representatives moved to block the FCC from spending any money granting LightSquared's conditional spectrum permit<sup>3</sup>

**II. ARGUMENTS**

Applicants suggested that LightSquared could be counted on as a competitor. Applicants also stated in their Joint Opposition that LightSquared could be counted upon to bolster their existing competitors (Cellular South, Leap). Lastly, Applicants suggested that LightSquared would bring additional competitors into the market (Best Buy).

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<sup>1</sup> <http://abcnews.go.com/Technology/wireStory?id=13972499>

<sup>2</sup> <http://www.insidegnss.com/node/2679>

<sup>3</sup> <http://www.wirelessweek.com/News/2011/06/Policy-and-Industry-House-Block-FCC-Permit-LightSquared-Government/>

To say that LightSquared has had a bad few weeks since the Joint Opposition was filed would be an understatement. LightSquared may find ways around their current difficulties, but it is certainly not a done deal. The Wall Street Journal quoted LightSquared's EVP of Regulatory Affairs, Jeff Carlisle as saying "I think we do need to talk about the possibility of accommodations on our side in order to figure out if there is a way forward." The phrase "if there is a way forward" jumps off of the page at the reader.

A search of the Joint Opposition reveals that the Applicants used the term "LightSquared" 29 different times. Admittedly, many of these occurrences are once in the document and once in the footnotes, but clearly a healthy LightSquared was part of the Applicants' plan for a competitive marketplace.

### **III. CONCLUSION**

**Under Section 310(d) of the Communications Act, the Applicants must demonstrate to the Commission that the proposed transfer of control would serve the public interest.** The Applicants have failed to demonstrate that grant of the above-referenced Applications is warranted. A grant of the Applications would not serve the public interest and would cause harm to wireless competition and thereby wireless consumers. For the reasons stated herein, the Commission should dismiss or deny the Applications.

In the absence of dismissing or denying the applications, the FCC should place the proceeding (WT Docket No. 11-65) on hold until the LightSquared questions are answered.

Respectfully submitted,

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Filed via Electronic Comment Filing System ("ECFS")

I, David Van Valkenburgh, certify that on July 7th, 2011, that a true and correct copy of the foregoing Reply was served on the following

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/s/ David Van Valkenburgh  
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