

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
Applications of AT&T Inc. and) WT Docket No. 11-65
Deutsche Telekom AG)
)
For Consent To Assign or Transfer Control of)
Licenses and Authorizations)

**OPPOSITION TO SPRINT REQUEST REGARDING DISCLOSURE OF
CONFIDENTIAL DOCUMENTS**

Deutsche Telekom AG and T-Mobile USA, Inc. (“Deutsche Telekom” and “T-Mobile USA”) hereby oppose Sprint Nextel Corporation’s letter¹ submitted to the Federal Communications Commission in the above-referenced docket in support of the Objection of the Rural Cellular Association (“RCA”)² to the Acknowledgements of Confidentiality filed on behalf of (i) Dr. Volker Stapper, Vice President of International Competition & Media Policy for Deutsche Telekom; (ii) Thomas Sugrue, Senior Vice President of Government Affairs for T-Mobile USA; and, (iii) Kathleen O’Brien Ham, Vice President of Federal Regulatory Affairs for T-Mobile USA (collectively “the Applicants”),³ or alternatively, requesting treatment of RCA’s objection as Sprint’s own objection. As

¹ Letter from Regina M. Keeney, Counsel to Sprint Nextel Corp., to Marlene H. Dortch, Secretary, Federal Communications Commission, WT Docket No. 11-65 (filed June 28, 2011) (“Sprint Request”).

² Rural Cellular Association, Objection of Rural Cellular Association to Disclosure of Confidential Documents, WT Docket No. 11-65 (filed May 27, 2011).

³ Letter from Eric W. DeSilva, Counsel for Deutsche Telekom and T-Mobile USA, to Marlene H. Dortch, Federal Communications Commission, WT Docket No. 11-65 (May 24, 2011) (“May 24, 2011 Acknowledgements”). The May 24, 2011 Acknowledgements certify that the signees will comply with the provisions of the Protective Order. *In re Applications of AT&T Inc. & Deutsche Telekom AG for Consent to Assign or Transfer Control of Licenses and Authorizations*, WT Docket No. 11-65, Protective Order, DA 11-674 (WTB rel. Apr. 14, 2011) (“*Protective Order*”).

detailed below, Sprint's Request is both procedurally and substantively defective. Accordingly, Deutsche Telekom and T-Mobile USA respectfully request that the Commission act promptly to dismiss or deny it.

As an initial matter, Sprint's Request is procedurally moot as it purports to support the RCA Objection, which is no longer pending and was not pending at the time Sprint filed its letter. On June 20, 2011, RCA withdrew its Objection.⁴ It has not been re-filed. Indeed, as RCA seemed to recognize in withdrawing its Objection, it has no basis to file an objection until it submits confidential information in this proceeding – which it has not yet done.⁵ Accordingly, there is – and was not at the time Sprint filed its letter – any objection pending with respect to the Acknowledgements for Sprint to support or try to assume as its own. Sprint's Request is accordingly moot.

To the extent that Sprint seeks to submit its own objection to the Acknowledgements, its objection is untimely. As Sprint acknowledges in its Request,⁶ the Protective Order states that a party submitting confidential information may object to the disclosure of its stamped confidential documents or confidential information within three business days after receiving a copy of an Acknowledgement of Confidentiality.⁷ Sprint's counsel was served with the signed Acknowledgements on May 24, 2011.⁸

⁴ Letter from Steven K. Berry, President & CEO, RCA, to Marlene H. Dortch, Federal Communications Commission, WT Docket No. 11-65 (June 20, 2011).

⁵ *Protective Order* ¶ 5 (“each Submitting Party shall have an opportunity to object to the disclosure of its Stamped Confidential Documents or Confidential Information”). “Submitting Party” is defined to mean a person who submits a Stamped Confidential Document. *Id.* ¶ 2.

⁶ Sprint Request at 3.

⁷ *Protective Order* ¶ 5.

⁸ May 24, 2011 Acknowledgments at 38.

Sprint did not file its Request until June 28, 2011 – over a month after Sprint received the Acknowledgments and after Sprint provided copies of its confidential filings to Deutsche Telekom and T-Mobile USA on two occasions without limitation or protest.⁹ Sprint had ample time to object to the Applicants’ Acknowledgements, but Sprint neglected to do so. Under the terms of the Protective Order, Sprint’s objection is untimely and should be promptly dismissed or denied.

Moreover, any objection that Sprint might have to the Applicants’ Acknowledgements is also substantively defective. Dr. Stapper, Mr. Sugrue and Ms. Ham previously demonstrated their eligibility to review confidential documents filed under the Protective Order by executing the Acknowledgements. Each Acknowledgement certifies specifically that the signatory is “not involved in Competitive Decision-Making” and agrees to be “bound by the Protective Order and . . . not disclose or use Stamped Confidential Documents or Confidential Information except as allowed by the Protective Order.”¹⁰ This is all that the Protective Order requires. Contrary to Sprint’s assertions, it does not require that persons with the title of Vice President complete additional certification requirements.¹¹ Further, in response to RCA’s now withdrawn Objection, Deutsche Telekom and T-Mobile USA submitted an Opposition describing each Applicant’s job functions and duties and explaining that none of them

⁹ Sprint provided copies of confidential versions of its Petition to Deny and Reply Comments to representatives of Deutsche Telekom and T-Mobile USA shortly after they were filed with the Commission.

¹⁰ *Protective Order* at Appendix A.

¹¹ Sprint seems to rely on the *WorldCom* case as supporting its assertion that further substantiation is necessary that the signatory is not involved in Competitive Decision-Making. Sprint Request at 2. However, that case is inapposite as the acknowledgement required in that case did not contain a certification that the signatory was not involved in Competitive Decision-Making; the Acknowledgements here do.

participate in Competitive Decision-Making for their companies.¹² The pleading assured the Commission that “[t]he Applicants do not provide advice to their respective companies about rate plans, pricing, marketing, sales, distribution, or general business strategies,” and that the Applicants’ review of confidential documents posed no risk of inadvertent disclosure.¹³

CONCLUSION

For the foregoing reasons, Deutsche Telekom and T-Mobile USA respectfully request that the Commission promptly dismiss or deny Sprint’s Request. The Request is untimely, and the Applicants have already established to the Commission that they are eligible to access materials filed under the Protective Order.

Respectfully submitted,

/s/ Nancy J. Victory

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July 6, 2011

¹² See Deutsche Telekom and T-Mobile USA, Opposition to Rural Cellular Association Objection to Disclosure of Confidential Documents, WT Docket No. 11-65 (filed June 1, 2011).

¹³ *Id.* at 3-4.

CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of July, 2011, I caused a true copy of the foregoing Opposition to Sprint's Objection to Disclosure of Confidential Documents to be sent by electronic mail (*) and by first class United States mail, postage prepaid (+) on:

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