

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA *et al.*,

Plaintiffs,

v.

DEUTSCHE TELEKOM AG, *et al.*,

Defendants.

Civil Action No. 1:19-cv-02232-TJK

CONSENT MOTION FOR LEAVE TO FILE FIFTH AMENDED COMPLAINT

Pursuant to Rule 15 of the Federal Rules of Civil Procedure and Local Civil Rule 7(i), the United States respectfully requests that the Court grant plaintiffs leave to file a Fifth Amended Complaint in order to add the State of Texas as a plaintiff. A copy of the proposed Fifth Amended Complaint is attached hereto, as required by Local Civil Rule 15.1. The United States has met and conferred with the plaintiff states and defendants in this matter, and all parties have consented to this motion in writing.

Plaintiffs, the United States of America and the States of Kansas, Nebraska, Ohio, Oklahoma, and South Dakota, filed their Complaint, a Stipulation and Order, and other documents on July 26, 2019. Dkt. Nos. 1-2. On July 29, 2019, the Court signed and entered the Stipulation and Order. Dkt. No. 16. On July 30, 2019, the United States filed a Competitive Impact Statement. Dkt. No. 20. On August 15, 2019, the United States filed a motion for leave to amend the Complaint to add the State of Louisiana as a plaintiff. Dkt. No. 26. The Court granted this motion and entered the Amended Complaint on August 16, 2019. Dkt. No. 28. On October 2, 2019, the United States filed a motion for leave to amend the Complaint to add the

State of Florida as a plaintiff. Dkt. No. 33. The Court granted this motion and entered the Second Amended Complaint on November 13, 2019. Dkt. No. 45. On October 28, 2019, the United States filed a motion for leave to amend the Complaint to add the State of Colorado as a plaintiff. Dkt. No. 40. The Court granted this motion and entered the Third Amended Complaint on November 13, 2019. Dkt. No. 46. On November 8, 2019, the United States filed a motion for leave to amend the Complaint to add the State of Arkansas as a plaintiff. Dkt. No. 43. The Court granted this motion and entered the Fourth Amended Complaint on November 13, 2019. Dkt. No. 47. Since then, the State of Texas has asked to join this matter as a plaintiff.

Under Rule 15(a)(2) of the Federal Rules of Civil Procedure, a party may amend its pleading if the opposing party consents to the amendment in writing. Fed. R. Civ. P. 15(a)(2); *see also Parker v. John Moriarty & Assocs.*, 320 F.R.D. 95, 97 (D.D.C. 2017) (Under Rule 15(a)(2), leave to amend “should be freely given unless there is a good reason to the contrary.”) (citing *Willoughby v. Potomac Elec. Power Co.*, 100 F.3d 999, 1003 (D.C. Cir. 1996)). Courts in this district routinely grant motions to amend complaints when defendants consent to such amendments. *E.g.*, Minute Order, *Boykin v. United States of America*, No. 17-2569 (May 25, 2018) (granting consent motion to amend complaint); Minute Order, *Davis v. Purdue*, No. 17-245 (Apr. 7, 2017) (same).

The only difference between the Fourth Amended Complaint and the proposed Fifth Amended Complaint is that the State of Texas has joined as a plaintiff. This amendment does not change the status of this matter; the State of Texas has agreed to the proposed settlement, as shown by the Stipulation attached hereto. Therefore, the United States respectfully requests that

the Court grant plaintiffs leave to file the Fifth Amended Complaint. A proposed order is attached.

Dated: November 27, 2019

Respectfully submitted,

/s/

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CERTIFICATE OF SERVICE

I hereby certify that on November 27, 2019 I caused a copy of the foregoing Consent Motion for Leave to File Fifth Amended Complaint, along with the Fifth Amended Complaint, Stipulation, and Proposed Order attached thereto, to be served by ECF on all counsel who have appeared in this matter and by electronic mail on:

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