

A.18-07-011 T-Mobile/ Sprint Merger: New York AG Decision

Redacted

The Joint Advocates are in receipt of the Joint Applicants' email/written ex parte informing the Commission of the recent District Court ruling and requesting immediate action by the Commission to approve their Application. Joint Advocates continue to review the lengthy court decision and have no comment at this time regarding the Applicant's interpretation of the holding discussed below, except to note that the discussion merely reflects one interpretation of the Court's holding, as presented by the companies. Joint Advocates believe that it would have been more appropriate for the Joint Applicants to submit the District Court's Ruling pursuant to a Motion to Take Official Notice under Rule 13.9 and to refrain from providing the unsolicited interpretation and commentary that now requires a response from other stakeholders.

Most importantly, the Commission must acknowledge that the events at the District court have little direct impact on this Commission's review of the transaction. Quite distinct from the federal review by the FCC and DOJ, the Commission has independent authority and obligation to review this merger and it should rely on that authority to continue its review. Public Utilities Code Section 854(b)(3) requires the Commission to request an advisory opinion from the California Attorney General on whether competition will be adversely affected, the Commission has a very clear statutory obligation to conduct a thorough and detailed review of this transaction to ensure it is in the public interest and will benefit California consumers.

The fact that the District Court has concluded its review does not require this Commission to accelerate its own review of the merger or to change its intended path in any way. This Commission must use the record before it, developed through significant discovery, thousands of pages of testimony, and hours of hearings, to come to its conclusions. Just as the Joint Applicants insist that the Commission must find this merger will benefit consumers, Joint Advocates strongly believe that the record in this proceeding demonstrates that this transaction will harm California consumers (whether it be the transaction that is actually before this Commission or the moving target of a transaction where the terms and conditions are constantly changing). While the Commission should not bow to external pressure to hasten the pace of its review, Joint Advocates believe that the Commission could quickly come to a finding that this merger is not in the public interest.

We await the Commission's determination of next steps and will provide further comment upon request.

Sincerely,

Christine Mailloux, on behalf of
TURN, Public Advocates, Greenlining Institute and CWA

Christine Mailloux
Managing Dir., San Diego
The Utility Reform Network
1620 Fifth Ave., Suite 810
San Diego, CA 92101
[\(619\) 398-3680](tel:619-398-3680)
[\(415\) 929-8876](tel:415-929-8876) (SF)
cmailloux@turn.org

