

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

In the Matter of the Joint Application of Sprint Communications Company L.P. (U-5112) and T-Mobile USA, Inc., a Delaware Corporation, For Approval of Transfer of Control of Sprint Communications Company L.P. Pursuant to California Public Utilities Code Section 854(a).

Application 18-07-011

And Related Matter.

Application 18-07-012

**OPPOSITION OF THE JOINT INTERVENORS TO THE JOINT APPLICANTS’
MOTION FOR IMMEDIATE APPROVAL OF THE TRANSFER OF SPRINT
COMMUNICATIONS COMPANY L.P. TO T-MOBILE USA, INC.**

I. INTRODUCTION

Pursuant to the California Public Utilities Commission (Commission) Rules of Practice and Procedure 11.1, the Public Advocates Office at the California Public Utilities Commission (Public Advocates Office), The Greenlining Institute (Greenlining), the Communications Workers of America (CWA), and The Utility Reform Network (TURN) (collectively, “Joint Intervenors”) submit this opposition to the Motion For Immediate Approval Of The Transfer Of Sprint Communications Company L.P. To T-Mobile USA, Inc. (Joint Applicants). Joint Applicants’ Motion seeks to sever this proceeding and have two separate final Decisions: one for the wireline Application (A.) 18-07-011, and another decision for the wireless Application A.18-07-012, despite the fact that the two applications were previously consolidated by Administrative Law Judge (ALJ) Bemesserfer’s September 11, 2018, Ruling Consolidating Applications.

The Motion also seeks “immediate” relief, despite the fact that the proposed merger between Sprint and T-Mobile, as described by the companies, is only one

transaction at the parent company level and cannot be separated into two transactions. Again, as described by the companies, it appears that Joint Applicants cannot go forward with the transaction until they obtain regulatory authority for both the wireline and the wireless transactions. Thus, there is no good cause for the Commission to issue an “immediate” final decision with regards to the wireline transaction, because Joint Applicants’ proposed merger cannot go forward with only the wireline approvals in place. The Joint Applicants’ proposed merger will have to wait until the wireless Application A.18-07-012 is decided, so there is no pressing need or good cause to grant immediate approval of the wireline Application A.18-07-011.

II. DISCUSSION

Joint Applicants filed two Applications, which have been consolidated. One application (A.18-07-011) requests approval pursuant to Section 854 of the transfer of control of Sprint Communications Company to T-Mobile USA (not to be confused with T-Mobile US, the parent company.) Sprint Communications Company is a wireline competitive local exchange company and nondominant local interexchange carrier with a long-standing record of service in California. The other application (A.18-07-012), which the Joint Applicants craft as a “Notification” pursuant to Commission Decision 95-10-032, describes the transfer of control of the Sprint Wireless Entities to the same T-Mobile entity, T-Mobile USA. Both of these applications, however, make it clear that there is essentially a single “parent level only” transaction involving both the wireline and wireless assets of each company.¹

On September 11, 2018, the ALJ consolidated the two Applications into one proceeding, on the grounds that “the underlying transaction that gives rise to each of them is the proposed Sprint-T-Mobile Merger and the underlying factual and legal issues are effectively identical.” In other words, there is only one proposed transaction: the proposed Sprint/T-Mobile Merger, and the factual and legal issues to consider are the

¹ Wireline Application at p. 3 and Wireless Application at p. 10.

same. Because there are not two separate transactions, it was more efficient, more effective, and saves Commission resources to combine the two different Applications in one proceeding, and to consider the identical underlying factual and legal issues at the same time.

As noted in the Public Advocates Office's Protest, the proposed transfers of control of Joint Applicants' wireless and wireline businesses are merely components of a larger nationwide merger wherein T-Mobile will acquire Sprint. The Public Advocates Office recommended a "holistic approach" to the proposed merger to better evaluate the context of the larger proposed merger. Combining the two Applications into one proceeding also enables the Commission to more accurately assess whether this proposed merger is in the public interest. Considering the proposed merger as one transaction is more efficient and optimizes the Commission's resources. Bifurcating the two Applications is inefficient and disregards the larger context (as well as violates the ALJ Ruling Consolidating Proceedings).

The Greenlining Institute (Greenlining) and The Utility Reform Network (TURN) noted in their joint protest that the two applications are inevitably and inextricably linked because the discussions of benefits and synergies put forth by the Joint Applicants in the two applications are essentially identical. Greenlining and TURN's Protest notes that the Commission is authorized to consolidate proceedings that involve similar or related questions of fact and law, and lists several compelling reasons the Commission should consider this proposed merger holistically: to ensure a meaningful review of the issues, craft a clear scope to the proceeding, develop an adequate record, and conserve Commission resources.

Moreover, the Joint Intervenors see no need to grant this Motion on an expedited basis. There is simply no good cause to for the wireline Application to be granted "immediately." It should be noted that Joint Applicants have hardly any wireline customers in California; the vast majority of their customers in California are wireless customers. Thus, from a business perspective it makes no sense for their wireline

businesses to merge, but not their wireless businesses. Doubtlessly, if the wireless Application is denied the Joint Applicants' wireline businesses will not merge. In fact, the proposed transaction would have to be rewritten for the companies to sever the wireline transaction from the wireless transaction. Therefore, from a practical standpoint there is no reason to bifurcate the final Decisions in this proceeding and issue one final Decision "immediately." The wireline Approval is essentially meaningless unless Joint Applicants also have approval for the wireless Application.²

For these reasons, the Joint Applicants' Motion should be denied. The Commission should continue to keep this proceeding consolidated, and issue only one final Decision, optimizing resources and considering the proposed merger holistically.

III. CONCLUSION

For the reasons stated herein, Joint Intervenors recommend that the Commission keep this proceeding consolidated and issue only one final Decision.

Respectfully submitted,

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May 21, 2019

² However, Joint Applicants' Opening Brief (at p. 7) appears to take the position their wireless Application "does not require the Commission's prior approval," suggesting that the proposed merger may go forward without the proper regulatory approvals in place. Obviously, Joint Intervenors do not agree. The law is clear that the wireless Application requires Commission prior approval. (For more discussion, see the Public Advocates Office's Reply Brief at p. 3.)