



THE UTILITY REFORM NETWORK

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785 Market Street, Suite 1400
San Francisco, CA 94103

415-929-8876 • www.turn.org

Christine Mailloux, Managing Attorney

April 15, 2020

Communications Division- Advice Letter Coordinator
505 Van Ness Avenue
San Francisco, CA 94102
TD_PAL@cpuc.ca.gov

*Re: CETF April 13, 2020 Response re: Sprint Communications Company L.P. (U-5112-C)
Tier 1 Advice Letter 918*

Dear PAL Coordinator,

The Utility Reform Network and The Greenlining Institute submit this correspondence specifically regarding the April 13, 2020 letter from the California Emerging Technology Fund (CETF). This letter is characterized as a “response” to the Tier 1 Advice Letter 918 submitted by Sprint Communications Company L.P.. TURN and Greenlining are writing to draw your attention to the impropriety of the CETF correspondence pursuant to General Order 96-B and to respectfully request that Communications Division require CETF to withdraw this response. In the alternative, TURN and Greenlining request that Communications Division clarify that the CETF correspondence has no effect and will not be considered by Communications Division staff as part of its review of the Sprint Advice Letter and the timely protests to that Advice Letter.

On March 30, 2020 Sprint submitted AL 918 wherein Sprint notified the Commission of its intent to withdraw its wireline CPCN, effective the same day as service of the Advice Letter. TURN and Greenlining submitted a protest of this Advice Letter on April 1, 2020. Public Advocates and Communications Workers of America, District 9 also submitted timely protests to the Sprint Advice Letter on April 7th and April 9th respectively. It is our understanding that the Communications Division has suspended the Advice Letter. It is also our understanding that Sprint has not yet submitted its reply to the protests, as required pursuant to General Order 96-B General Rule 7.4.3.

Under General Order 96-B General Rule 7.4.1, stakeholders may protest or respond to advice letters within 20 days of the submission; as such, the window for protests or responses to the Sprint AL 918 remains open until April 20, 2020. CETF submitted what it terms a “response” to the Sprint Communications Company, L.P. Advice Letter 918 on April 13, 2020. However, CETF’s correspondence does not satisfy the definition of “response” pursuant to General Rule 3.13 of General Order-96. CETF’s letter neither “unconditionally supports” the Advice Letter nor provides “useful information *regarding the advice letter.*” Instead, it responds directly to the TURN and Greenlining Protest. The CETF letter does not discuss the Sprint Advice Letter except in the introductory paragraph and in footnote two where it merely summarizes the Advice letter. The CETF response does not substantively discuss the Advice Letter or the impacts of the Advice Letter and the requested relief on its constituents, nor does it take a position on the Advice Letter.

Instead the response provides a detailed description of the Memorandum of Understanding between CETF and T-Mobile, and includes other commitments made by T-Mobile in relationship to the merger proceeding. Sprint is not even a signatory to the discussed MOU. CETF claims that the

TURN/Greenlining Protest provided “potentially misleading” information as TURN and Greenlining argued that the Advice Letter and withdrawal of Sprint’s CPCN may have an impact on the commitments in the CETF MOU and their enforceability. TURN and Greenlining stand by their Protest. It would be inappropriate to repeat or defend our concerns here. More to the point, however, is that CETF’s criticism of the TURN/Greenlining Protest is appropriately Sprint’s argument to make in its reply to the submitted protests, not CETF’s. The Rules do not provide for the type of submission provided by CETF here and the submission should be rejected.

To aggravate this violation of the Commission’s Advice Letter rules, CETF attached to its correspondence an unverified, unsupported one paragraph letter from a T-Mobile executive and letter by the T-Mobile CEO. Both of these letters give CETF, but not the Commission, assurance that the company “stands ready” to honor the voluntary commitments in the MOU.¹ Even more troubling, it appears that CETF submitted this improper response to the service list of the merger application docket. While not directly relevant for Communications Division’s review of the Sprint Advice Letter, it should be noted that CETF’s email of this April 13, 2020 correspondence on the merger service list is a possible violation of the Commission’s Rules of Practice and Procedure as an inappropriate ex parte communication, as it was submitted on the same day as a properly noticed Ratesetting Deliberative Meeting.²

TURN and Greenlining are submitting this letter out of an abundance of caution and in light of the unusual circumstances surrounding this Sprint Advice Letter and the related merger review. TURN and Greenlining request that Communications Division require CETF to withdraw its April 13, 2020 letter. Please submit questions concerning this protest to Christine A. Mailloux at cmailloux@turn.org.

Respectfully,

/s/

Christine Mailloux

On behalf of The Utility Reform Network and The Greenlining Institute

cc: Communications Division Service List “not fitting within the preceding categories.”
Stephen Kukta, Sprint Communications Company

¹ The April 1, 2020 letter from CEO Sievert was originally served on the merger service list, presumably as a written ex parte, and attached to the opening comments of the Joint Applicants to the Proposed Decision in A.18-07-011/A.18-07-012. However, the Docket Office required the Joint Applicants to remove this letter from their comments. We have not previously seen the April 3, 2020 letter.

² Rules of Practice and Procedure 8.2(c)(4) (prohibiting both oral and written ex parte communications from the day of a Ratesetting Deliberative Meeting through the conclusion of the Business Meeting.) Ratesetting Deliberative Meeting was noticed for April 13, 2020 via email on April 10, 2020. While TURN/GLI submitted their Protest on the A.18-07-011/A.18-07-012 merger service list, there was no ex parte limits at that time. TURN/GLI will not further exacerbate CETF’s potentially improper ex parte communication with their own and, therefore, will not forward this letter to the service list for. We must assume that the CETF correspondence, including the two T-Mobile letters, will be rejected as improper ex parte communications or, at a minimum, will only be treated as ex parte communications and not relied upon by the Commission in its review of the merger.

Service list: Any Advice Letter Not Fitting Within the Preceding Categories

	Last Name	Email Address	Company	UN
Ross	Johnson	att-regulatory-ca@att.com	AT&T California	
Steve	Fetzer	sfetzer@4cct.com	CCT Telecomm	
John	Gutierrez	John_Gutierrez@cable.comcast.com	Comcast Phone of California, LLC	U-56
PHILIP	JOSEPHSON	PJOSEPHSON@STERLINGBUSINESSLAW.COM	TNCI	
KAREN	MCBEE	TRUCKEE25@AOL.COM	PPG COMMUNICATIONS	
Michelle	Salisbury	michelle.salisbury@crowncastle.com	CA - CLEC LLC & NewPath Networks, LLC	6936
Yvonne	Wooster	ysmythe@caltel.com	Calaveras Telephone	U-10
Floyd	Jasinski	floyd.jasinski@consolidated.com	Consolidated Communications, Inc	1015
Karen	Ritter	CAservicelist@tminc.com		
davina	hunter	davinahunter29@gmail.com		
Winafred	Brantl	wbrantl@kelleydrye.com	Kelley Drye & Warren LLP	
Craig	Teal	cteal@pointtopointinc.com	Point to Point, Inc.	
Suzanne	Toller	suzannetoller@dwt.com	Davus Wright Tremaine	
Judy	Pau	dwtcpucdockets@dwt.com	Davus Wright Tremaine	
Dean	LaChapelle	deanvic@yahoo.com	Point To Point Inc	
Charlie	Born	Charlie.Born@ftr.com	Frontier Communications	
Risa	Hernandez	rhh@cpuc.ca.gov	CPUC	
Steven	Fenker	steve@tsihomphone.com	Nexus Communications	U-43
Tony	Rafati	trafati@semprautilities.com		
John	Clark	jclark@goodinmacbride.com		
Stefanie	Edwards	sedwards@bluecasa.com	Blue Casa Telephone	
Christine	Mailloux	cmailloux@turn.org	TURN	
Beth	Blair	beth.blair@dgs.ca.gov	State of California	don't one
Bill	Peters	bill.peters@argusmedia.com	Argus Media	N/A
Michael	Heyenga	cwa9509@gmail.com		
badruden	juma	upstudent9@gmail.com	myself	
Kim	Isaacs	kdisaacs@integratelecom.com	Integra	
Kristopher	Twomey	kris@lokt.net		
Elizebeth	Hansen	eh2726@att.com	AT&T	
Margaret	Tobias	info@tobiaslo.com		
Heather	Kirby	hkirby@telecomcounsel.com	Lance J.M. Steinhart, P.C.	
Inna	Vinogradov	inna@icommlaw.com		
Paula	Schneider	paula@crockerlawfirm.com	Crocker & Crocker	
Scott	Kellogg	scottekellogg@me.com	Kellogg Law Group, LLC	
Nicole	Winters	Nicole.Winters@windstream.com	Windstream	
Kristin	Manwarren	regulatory@intelepeer.com	IntelePeer	U-71
N.A.	Tannenbaum	cpuclists@gmail.com		
Angel	Barragan	Angel@FirelineBroadband.com		

Mark	McDonald	cpuc@siteserver.com	Siteserver, Inc.	
Kevin	Ashworth	regulatory@bluehatservices.com	Blue Hat Services	
Shawn	Pitner	admin@empyrewireless.com	Empyre Wireless LLC	
G	Rogers	grogerswcms@live.com		
Paul	Goodman	paulg@greenlining.org	The Greenlining Institute	
Timothy	Naple	tnaple@luxbridge.com	LuxBridge	
Jon	Sarafian	jonathansarafian@me.com		
Todd	Lantor	TLantor@fcclaw.com	Lukas, Nace, Gutierrez & Sachs, LLP	
Douglas	Denney	dkdenney@integratelecom.com	Electric Lightwave, LLC	
Patti	Ringo	paringo1@gmail.com		
Virginia	Morales	thelegend831@live.com	Choke Wireless Communications	
Patrice	Rogers	progers@rtcteam.net	RTC Associates, LLC	
Kennyatta	Perkins	kperkins@rtcteam.net	RTC Associates, LLC	
Aisha	Perkins	aperkins@rtcteam.net	RTC Associates, LLC	
Regulatory	Dept	regulatory@ecomobile.com		
Tina	Allen	tallen@telecomservicebureau.com		
Alan	Galloway	alangalloway@dwt.com	Davis Wright Tremaine	
Becky	Heggelund	bheggelund@nbglaw.com	Nowalsky & Gothard, APLLC	
Margarett	Johnson	mjohnson@blnlaw.com	Bowles Liberman & Newman	
Darny	Sy	regulatory@totalcallmobile.com		
Michael	Rees	mrees@summitig.com		
Rachel	Schmeidler	rachel.schmeidler@sprint.com	Sprint	
Justin	Barnes	jbarnes@kfwlaw.com		
Carla	Liff	Carla.Liff@cgminc.com		
Anne	Clements	Anne.Clements@cgminc.com		
Julie	Poon	julie.poon@consolidated.com	Consolidated Communications	
Jason	VanArsdall	jvanarsdall@iwirelesshome.com	Access Wireless	
Ira	Gorsky	igorsky@elevationllc.net	Elevation	
Kim	Malcolm	klmalcolm@gmail.com		
Susan	Berlin	susan.berlin@telrite.com	Life Wireless	U-44
Sharon	Warren	swarren@tminc.com	Technologies Mgmt., Inc.	
Domenic	Fontana	domenic.fontana@viaoneservices.com	Via One Services	
Karen	Chung	karen.chung@sce.com		
Randy	Mills	randymills@chevron.com	Chevron Power and Energy Management	
Jim	McTarnaghan	CPUC_AL-Rates@perkinscoie.com		
Darren	Lee	dlee@cwclaw.com		
Katherine	Marshall	kmarshall@potomaclaw.com		
Ana Maria	Johnson	aj1@cpuc.ca.gov	CPUC Office of Ratepayer Advocates	
Josh	Guyan	jguyan@kelleydrye.com	Kelley Drye & Warren LLP	
Kim	Isaacs	Kim.Isaacs@allstream.com		

Melissa	Slawson	mslawson@geolinks.com	California Internet L.P. DBA GeoLinks	U-73
Cassandra	Milligan	cassandra.milligan@tagmobile.com	TAG Mobile, LLC	U-44
Dale	Wiltshire	dale@fatpbx.com	Fresno Area Telephone & PBX	U-14
Kim	Scovill	kim.scovill@comtechtel.com	TeleCommunication Systems, Inc.	
J.G.	Harrington	jgharrington@cooley.com		
Henry	Wendel	hwendel@cooley.com		
Jack	Conklin	jhcon@hotmail.com	Dr.	
Kevin	Rhoda	krhoda@telecomreg.com	Rowland & Moore LLP	
Kelly	Faul	kelly.faul@verizon.com	XO Communications Services, LLC	U-55
Ken	Garnett	kgarnett@cal.net	Cal.net, Inc.	U-13
Lesli	Rowe	lesli.rowe@viaoneservices.com	SafetyNet Wireless	U-44
Pam	Brewer	pbrewer@inteserra.com	Inteserra Consulting Group	
Matt	Dean	regcompliance@telecompliance.net	Telecom Professionals, Inc.	
Bob	Kelly	bkelly@swwc.com		
Carlos	Alcantar	carlos@race.com		
Vince	Coppey	vc1@cpuc.ca.gov	Public Utilities Commission	
Michael	Anderson	mikea@clientworks.com	Clientworks, Inc.	
Jennifer	Carter	jcarter@gcioa.com	Global Connections Inc. of America	
Jason	VanArsdall	jvanarsdall@standupwireless.com	StandUp Wireless	
Choua	Her	choua.her@mossadams.com	Moss Adams	
G. Joseph	Buck	complaint.Frontier@gmail.com	Frontier California Inc.	U100
Karen	Higgs	Karen.Higgs@motorolasolutions.com	Vesta Solutions, Inc.	U-73
Kara	Light	kara.light@sprint.com	Assurance Wireless	
grace	boehm	grace.boehm@virginmobileusa.com	Virgin Mobile/Assurance	
Jerry	Weikle	jweikle@windstream.net		
Susan	Pettegrew	spettegrew@inteserra.com		
Ashley	Salas	asalas@turn.org	The Utility Reform Network (TURN)	
Shelly	Lyser	shelly.lyser@cpuc.ca.gov		
Kristin	Jacobson	kristin@kljlegal.com	Law Offices of Kristin L. Jacobson	
Jessica	Garcia	jgarcia@inteserra.com		
TD	PAL	TD._PAL@cpuc.ca.gov	CPUC Communications Division	
Phil	Rotheram	phil.rotheram@atos.net	Atos Public Safety	
Jacob	Hulse	jake.hulse@peakcomm.com	Peak Communications, Inc.	
Lydia	Freemon	lydfreemon@gmail.com		
Karen	Wolf	karen.wolf@motorolasolutions.com	Vesta Solutions, Inc.	U734
Susan	Ornstein	susan.ornstein@comtechtel.com	TeleCommunication Systems, Inc.	
Linda	Stinar	linda.c.stinar@centurylink.com	CenturyLink	U-53
Crystal	Prahl	crystal.prahl@charter.com		
Paul	Porter	paul.porter@ooma.com	Ooma, Inc.	
Frank	App	Frank.App@charter.com	Charter Communications	

Randy	Whitehead	randy@infrastructurerealty.com	Infrastructure Realty Trust	
thomas	crowe	tcrowe@logicaltelecom.com	Logical Telecom	U-72
linda	peng	lindapeng@comnet-telecom.com	ComNet(USA) LLC	U-73
Jessica	Renneker	jrenneker@nos.com	ANI, NOS, NOSVA	
Teresa	Bitterling	teresa@crockerlawfirm.com	Crocker & Crocker	U-66
Stephen	Blum	steveblum@tellusventure.com	Tellus Venture Associates	
Tommy	Johnson	tommy.johnson@charter.com	Time Warner Cable Information Services (California)	
Rachelle	Chong	rachelle@chonglaw.net	Law Offices of Rachelle Chong	