

RECEIVED
CASE MANAGEMENT

NOV 14 2018

Jan 11/19/18



BOARD OF PUBLIC UTILITIES
TRENTON, NJ

PHIL MURPHY
Governor

SHEILA OLIVER
Lt. Governor

State of New Jersey
DIVISION OF RATE COUNSEL
140 EAST FRONT STREET, 4TH FL
P.O. BOX 003
TRENTON, NEW JERSEY 08625

STEFANIE A. BRAND
Director

Via Electronic and Regular Mail

Ms. Aida Camacho-Welsh, Board Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 3rd Fl., Ste. 314
P.O. Box 350
Trenton, New Jersey 08625-0350

November 8, 2018

RECEIVED
MAIL ROOM

NOV 13 2018

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

Re: Notice of Indirect Transfer of Control of Sprint Communications Company, L.P.
BPU Docket No.: TM18070730

Dear Secretary Camacho-Welsh:

The New Jersey Division of Rate Counsel ("Rate Counsel") has reviewed the above referenced Notice of Indirect Transfer of Control ("Notice") filed jointly by T-Mobile USA, Inc., ("T-Mobile USA"), and Sprint Communications Company, L.P. ("Sprint Communications" and collectively, the "Parties") notifying the New Jersey Board of Public Utilities, ("Board") of the indirect transfer of control and contend that Board review and approval of the transaction is exempt under N.J.S.A. 48:2-51.1(b); 48:3-7g; 48:3-9b and 48:3-10b, as the transactions are occurring at the parent holding company level, and the transfer involves wireless services.¹ Rate Counsel submits the within comments on this matter for the Board's consideration. Enclosed with this original please find ten copies. Kindly return a date/stamped "Received" and/or "Filed" copy to Rate Counsel. For the reasons that follow, should the board decide that review is appropriate in this matter, Rate Counsel does not object to Board approval of the Parties' request herein and submits certain conditions discussed below for the Board's consideration in its review of this Notice.

Parties and Transaction

Sprint Corporation, ("Sprint") is a publicly traded Delaware corporation and is the Parent/holding company for Sprint Communications, a Delaware limited partnership.² In 2013, SoftBank Group Corp., ("SoftBank") a provider of mobile and fixed-line telecommunications services in Japan (through its telecommunications subsidiary SoftBank Corp.,) and publicly

¹ At present Sprint Communications does not have any remaining TDM IXC or enterprise customers in New Jersey, remaining New Jersey customers have been migrated to Sprint Communications' Internet Protocol ("IP") services. ¹ Sprint Communications' response to Board Staff's discovery request S-Sprint-2, provided on September 5, 2018.

² Notice at p. 3. Softbank Group Corp., a publicly traded Japanese corporation through its subsidiaries Starburst and Galaxy collectively own 84.2 percent of Sprint. *Id.*

traded Japanese corporation and holding company acquired indirect interest in Sprint which as of 2017 was 84.2 percent.³ In New Jersey, Sprint Communications is currently transitioning its New Jersey customers from its TDM services to its Voice over Internet Protocol (“VoIP”) services. It holds Board-approved certificates of authority and is authorized to provide intrastate interexchange services,, interLATA toll services and competitive local exchange carrier (“CLEC”) services to residential, enterprise and carrier customers statewide. Sprint Communications currently has no employees in New Jersey connected with its New Jersey operations and services.⁴ Sprint is also the provider of Telecommunications Relay Service (“TRS”) in New Jersey.⁵ Sprint has indicated that the “acquisition will have no effect on Sprint’s provision of lifeline wireless service in New Jersey.”⁶

The Board has an overarching obligation to ensure the continued safe provision of utility service to ratepayers. As discussed above, Sprint Communications is authorized to provide telecommunications services including relay services in New Jersey. The Board must ensure service quality and customer service metrics are maintained and continued. .

Accordingly, Rate Counsel respectfully urges that the Board condition Board approval on a firm commitment from the *New T-Mobile* (*New T-Mobile* and/or Sprint and Sprint Communications) that the contemplated post acquisition/merger employment reductions will not jeopardize the provision of safe and adequate services for Sprint Communications’ New Jersey customers. Such a commitment will ensure continued adequate service quality and customer service for New Jersey customers and is consistent with the Board’s regulatory obligation, policy and precedent.

The Business Combination Agreement entered into by T-Mobile, USA and Sprint Communications, details the steps under the Merger Transaction which is described as a simultaneous multi-step process resulting in Sprint as an indirect subsidiary of T-Mobile US and with Sprint and Sprint Subs surviving as direct subsidiaries of T-Mobile USA.⁷ Parent companies Deutsche Telekom (T-Mobile) and SoftBank (Sprint) will hold approximately 42 percent and 27 percent of fully diluted T-Mobile Common Stock respectively with the remaining 31 percent of the fully diluted shares of T-Mobile Common Stock held by public stockholders.⁸ The Notice filed with the Board does not contain financial information in connection with the \$26 billion acquisition/merger or the \$43.6 billion expected in merger synergies.⁹

³ Notice at pp. 2-3 and Notice at *fn* 6 citing to Board Order, In the Matter of the Notification of Indirect Transfer of Control of Sprint Commc’ns Co., L.P. to Starburst II, Inc., under Docket TM12111044, (March 20, 2013).

⁴ Notice, at p. 4, and Sprint Communications’ response to Board Staff’s discovery requests S-Sprint-3 and S-Sprint-4, provided on September 5, 2018. Rate Counsel notes that in connection with their New Jersey wireless services Sprint currently employs 697 employees and T-Mobile employs 1,314 employees.

⁵ Notice at *fn* 1, p. 1 and *fn* 3 at p. 2. See also, Board Orders in Dockets TM8603294, TE92111047 and TE966060479.

⁶ Sprint’s response to Board Staff’s discovery request S-Sprint-6, provided on September 5, 2018.

⁷ Notice at p. 3 and depicted on Exhibit A, titled the “Final Transaction Structure” attached to the filing.

⁸ *Id.*

⁹ *Applications of T-Mobile US, Inc. and Sprint Corporation for Consent to Transfer Control of Licenses and Authorizations*, WT Docket No. 18-197, p. 15, dated June 18, 2018 (“FCC Application”) access at: [https://ecfsapi.fcc.gov/file/10618281006240/Public%20Interest%20Statement%20and%20Appendices%20A-J%20\(Public%20Redacted\)%20.pdf](https://ecfsapi.fcc.gov/file/10618281006240/Public%20Interest%20Statement%20and%20Appendices%20A-J%20(Public%20Redacted)%20.pdf) .

Public Interest Considerations

As per the Notice the transfer will not involve a transfer of operating authority, assets or customers in New Jersey or elsewhere.¹⁰ Sprint Communications will continue to hold all of the authorizations it held before the internal reorganization.¹¹ The Notice does not include discussion of financial arrangements in connection with the acquisition/merger. The Notice states that the acquisition/merger will allow the Parties to initiate rapid and widespread deployment of 5G networks that will spur the competition to invest in increase capacity, lower its pricing and thus will accelerate the roll-out of 5G services nationwide yielding numerous public interest benefits to New Jersey and New Jersey customers such as improved high-speed broadband services to rural consumers, increased managerial, technical and financial resources increasing Sprint Communications' ability to "offer a wider array of services that can be bundled with wireless services."¹²

The T-Mobile, US, Inc. and Sprint Corporation's Federal Communications Commission ("FCC") filing states that the *New T-Mobile* commits to reinvesting \$40 billion of the expected \$43.6 billion in synergies on 5G expansion over the next three years.¹³ The FCC filing asserts that the merger will produce the network capacity and additional and complimentary spectrum to provide a robust broadband experience for consumers. It asserts that the merger will increase covered population distribution through increased access to cell sites and assures steadily increasing data speeds (during the period up through 2024) of no lower than 100 Mbps to as much as 500 Mbps or greater that can effectively compete with wired broadband data speeds.¹⁴ The Parties estimate that increases in market competition will drop the price of data per gigabyte benefiting national and New Jersey customers alike.¹⁵ Moreover, merger synergies are expected to "free up financial resources that can be invested into improving ... in-home broadband ... and rural market segments, and have pledged to open 600 retail stores in small rural towns."¹⁶

Although the Parties herein contend that prior Board approval is not required they nevertheless submit that the proposed transaction is in the public interest, is particularly beneficial to underserved rural areas and meets the requirements under *N.J.S.A. 48:2-51.1*.¹⁷ The Parties assert the Transaction will enhance the New T-Mobile's ability to compete in the communications marketplace for the general benefit of New Jersey consumers.¹⁸ The Transaction will not negatively affect Sprint Communications' customers who will continue to receive the same services under the same terms, rates and conditions by Sprint Communications as they received prior to the acquisition/merger.¹⁹ In addition, at present, the Transaction does

¹⁰ Notice at p. 4.

¹¹ *Id.*

¹² *Id.*, pp. 4-5

¹³ FCC Application, *supra*, at *fn* 9, at p. 15 and Public Interest Statement at iv.

¹⁴ *Id.*, pp. 25-35 and at pp. 44-45 (expected Peak 5G Data Rates). *See also*, Public Interest Statement, at ii.

¹⁵ Notice, at p. 5.

¹⁶ FCC Application, *supra* at *fn* 9, pp. 15-16, 68 and The Declaration of G. Michael Sievert, President and Chief Operating officer, T-Mobile US, Inc., pp. 4, and 8.

¹⁷ There is ample Board precedent to support that in addition to ensuring that the minimum statutory criteria are met the Board must be satisfied that positive benefits will flow to customers and the State of New Jersey. *See* Board Orders in Dockets TM18020091, TM18070712, TM18060612.

¹⁸ FCC Application, *supra*, at *fn* 9, pp. 15-16.

¹⁹ Notice, at p. 4.

not implicate nor will it impact employment or pension obligations under *N.J.S.A. 48:2-51.1*, *N.J.S.A. 48:3-7*, and *3-10*, as New Jersey employment is solely connected to Sprint's and T-Mobile's wireless services only.²⁰ Sprint Communications has confirmed its commitment to continue to provide Lifeline services in New Jersey post-merger.²¹

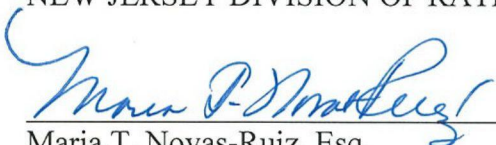
In connection with the continuation of Lifeline service offerings, although Sprint Communications has pledged its continued commitment to provide these services in New Jersey, T-Mobile only provides this service in nine states and in 2017 moved to eliminate Lifeline plans (under state and federal programs) in seven of the nine states on the basis that the program is "uneconomical."²² Rate Counsel respectfully recommends that the Board require New Jersey specific commitments on the continuation of Lifeline services throughout New Jersey.

Therefore, although Rate Counsel supports the contemplated continued provision of innovative, high quality telecommunications services to the public for the benefit of both residential and business customers in this state, Rate Counsel respectfully urges the Board to obtain firm commitments on benefits that are New Jersey specific (i.e. a New Jersey specific 5G deployment plan for rural and other underserved areas) and aimed at resolving service and digital divide gaps experienced by New Jersey consumers. Accordingly, with the inclusion of the recommendations proposed by Rate Counsel above and/or other action the Board may deem necessary and/or more appropriate Rate Counsel would not oppose Board approval of the acquisition/merger transaction.

Thank you for your attention and consideration of Rate Counsel's recommendations in this matter.

Respectfully Submitted,

STEFANIE A. BRAND, ESQ.
DIRECTOR
NEW JERSEY DIVISION OF RATE COUNSEL


Maria T. Novas-Ruiz, Esq.

Assistant Deputy Rate Counsel

MNR/td

cc: Service List

²⁰ Id., and *supra* at fn 6.

²¹ *Supra* at fn 5.

²² "CFO: 'Non-sustainable' T-Mobile Lifeline Business to be Phased Out", Telecompetitor, (June 8, 2017) at: <https://www.telecompetitor.com/cfo-non-sustainable-t-mobile-lifeline-business-to-be-phased-out/> ; See also, Greenlining Institute, at pp. 28-29, (Aug. 27, 2018).

**Notice of Indirect Transfer of Control of
Sprint Communications Company L.P.**

BPU Docket No. TJ18070730

Harold Bond, Bureau Chief
Office of Telco & Cable
New Jersey Board of Public Utilities
44 S. Clinton Ave., 3rd Fl., Ste. 314
P.O. Box 350
Trenton, NJ 08625

Michelle Painter
Sprint Communications
Company, L.P.
12502 Sunrise Valley Dr.
Reston, VA 20196

Patricia Krogman, Esq.
Division of Law
Dept. of Law & Public Safety
124 Halsey Street, 2nd Floor
P.O.Box 45029-5029
Newark, NJ 07101

Michele Thomas
National Directory State Regulatory
Affairs
T-Mobile USA, Inc.
12920 SE 38th Street
Bellevue, Washington 98006

Stefanie A. Brand, Director
NJ Division of Rate Counsel
140 East Front Street, 4th Floor
P.O. Box 003
Trenton, NJ 08625

Carol Artale, Esq.
Legal Specialist
New Jersey Board of Public Utilities
44 S. Clinton Ave., 3rd Fl., Ste. 314
P.O. Box 350
Trenton, NJ 08625

Aida Camacho, Board Secretary
New Jersey Board of Public Utilities
44 S. Clinton Ave., 3rd Fl., Ste. 314
P.O. Box 350
Trenton, NJ 08625

Maria Novas-Ruiz
Assistant Deputy Rate Counsel
NJ Division of Rate Counsel
140 East Front Street, 4th Floor
P.O. Box 003
Trenton, NJ 08625

Lawanda Gilbert, Esq.
Director, Office of Telco & Cable
New Jersey Board of Public Utilities
44 S. Clinton Ave., 3rd Fl., Ste. 314
P.O. Box 350
Trenton, NJ 08625

James C. Meyer
Riker Danzig Scherer Hyland &
Perretti LLP
Headquarters Plaza
One Speedwell Ave.
Morristown, NJ 07962

Rocco Della-Serra, Administrative
Analyst, Accounting
New Jersey Board of Public Utilities
44 S. Clinton Ave., 3rd Fl., Ste. 314
P.O. Box 350
Trenton, NJ 08625

Daniel R. LeCours, Esq.
Harris Beach PLLC
677 Broadway, Suite 1101
Albany, NY 1101