

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of )  
 )  
Applications of T-Mobile US, Inc. ) WT Docket No. 18-197  
 )  
And )  
 )  
Sprint Corporation )  
 )  
For Consent To Assign or Transfer Control of )  
Licenses and Authorizations )

**PETITION TO DENY OF THE GREENLINING INSTITUTE**

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## PETITION TO DENY

The Greenlining Institute (“Greenlining”) hereby files this Petition to Deny the applications, as proposed, in the above-captioned matter pursuant to Section 309(d)(I) of the Communications Act of 1934,<sup>1</sup> and the FCC's Public Notice of June 15, 2108.<sup>2</sup> The proposed transaction would seriously harm consumers from communities of color and low-income consumers; these public interest harms outweigh any potential public interest benefits. The public interest therefore requires that the Commission reject the applications in their entirety, as proposed, or, at a minimum, impose significant conditions to ameliorate the threatened harms to low-income consumers and protect the public interest.

### SUMMARY

Greenlining files this petition to deny on the information that is currently available. However, Greenlining is currently investigating this transaction, and Greenlining’s current position in this proceeding may not be its ultimate position. Greenlining finds a number of Applicants’ claims questionable and expects that other parties will address many of those claims in their filings. Greenlining wishes to focus on the impacts of the proposed transaction on communities of color.

Applicants must prove by a preponderance of the evidence that the proposed transaction is in the public interest. Applicants have failed to meet that burden. Applicants have not provided sufficient evidence of the transaction’s effects on “value conscious” customers, nor have they provided sufficient evidence of the transaction’s effects on communities of color. Applicants have not provided sufficient evidence of the transactions’ effects on rural

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<sup>1</sup> 47 U.S.C. § 309(d)(I) (2011).

<sup>2</sup> FCC Public Notice, MB Docket No. 18-197 (June 15, 2018) (Establishing Pleading Cycle).

communities and have not provided sufficient evidence that customers will not be affected. Applicants have not provided sufficient evidence of the transaction's effects on the availability of lifeline to low-income consumers. The proposed transaction promises to harm diversity and inclusion unless the commission requires additional commitments. Applicants must provide assurances that the transaction will not impact public safety and emergency communications.

## **ARGUMENT**

### **A. GREENLINING HAS STANDING TO FILE THIS PETITION**

Any "party in interest" may petition the Commission to deny the assignment or transfer of a license.<sup>3</sup> A party in interest is any party whose interests are likely to be adversely affected.<sup>4</sup> Greenlining is a non-profit organization dedicated to empowering communities of color, low-income communities, and other disadvantaged groups. Started in 1993 by the Greenlining Coalition, Greenlining seeks to protect consumer interests while partnering with some of the largest companies in America to better serve this country's multi-ethnic and underserved communities. Beyond ethnic diversity, the coalition represents diverse constituents that include faith-based organizations, minority business associations, community development corporations, health advocates, traditional civil rights organizations, and minority media outlets.

Members of the Greenlining Coalition subscribe to services provided by the Applicants. Moreover, members of the communities served by Greenlining Institute and employees of the Greenlining Institute are subscribers to phone, video, and broadband services and will be impacted by the proposed merger. As this petition will demonstrate, the proposed merger would directly and adversely impact the communities the Greenlining Institute represents. Accordingly, Greenlining has standing to oppose the applications.

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<sup>3</sup> 47 U.S.C. §309(d) (2011).

<sup>4</sup> Camden Radio, Inc., v. Federal Communications Commission, 220 F.2d 191, 194 (D.C. 1954).

## **B. THE PROPOSED TRANSACTION IS NOT IN THE PUBLIC INTEREST**

Applicants bear the burden of proving by a preponderance of the evidence that the proposed transaction is in the public interest. Applicants have not provided sufficient evidence of the transaction's effects on "value conscious" customers, nor have they provided sufficient evidence of the transaction's effects on communities of color. Applicants have not provided sufficient evidence of the transactions' effects on rural communities and have not provided sufficient evidence that customers will not be affected. Applicants have not provided sufficient evidence of the transaction's effects on the availability of lifeline to low-income consumers. The proposed transaction promises to harm diversity and inclusion unless the commission requires additional commitments. Applicants must provide assurances that the transaction will not impact public safety and emergency communications.

### **1. Applicants Must Prove by a Preponderance of the Evidence that the Proposed Transaction Is In the Public Interest.**

A party seeking the acquisition or transfer of a license bears the burden of proving to the Commission, by a preponderance of the evidence, that the proposed transaction will serve the public interest, convenience, and necessity.<sup>5</sup> In making this determination, the Commission first assesses "whether the proposed transaction complies with the specific provisions of the Communications Act, other applicable statutes, and the Commission's rules."<sup>6</sup> When reviewing a transaction, the Commission considers the competitive effects of that transaction on the public interest.<sup>7</sup> However, the Commission's public interest inquiry extends far beyond potential

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<sup>5</sup> Order In the Matter of Applications of AT&T Inc. and Cellco Partnership, WT Docket No. 09-104, Memorandum Opinion and Order, 25 FCC Rcd 8704, 8716 (June 22, 2010) (hereafter, AT&T/Cellco Order).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

competitive effects.<sup>8</sup> The Commission also considers “whether the proposed assignment and transfer of control...is likely to generate verifiable, transaction-specific public interest benefits.”<sup>9</sup> The Commission’s public interest inquiry includes a consideration of, “among other things, a deeply rooted preference for preserving and enhancing competition in relevant markets, accelerating private sector deployment of advanced services, promoting a diversity of license holdings, and generally managing the spectrum in the public interest.”<sup>10</sup>

The Commission then considers whether the acquisition “could result in public interest harms by substantially frustrating or impairing the objectives or implementation of the Communications Act or related statutes.”<sup>11</sup> If there is a risk of harm, the Commission employs “a balancing test weighing any potential public interest harms of the proposed transaction against any potential public interest benefits.”<sup>12</sup> If the potential public interest harms outweigh the potential public interest benefits, the transaction is not in the public interest.<sup>13</sup>

## **2. Applicants have not Provided Sufficient Evidence of the Transaction’s Effects on “Value Conscious” Customers.**

The Application makes the rather bold claim that the elimination of Sprint as a competitor will nevertheless promote competition.<sup>14</sup> However, when discussing the combined company’s position as a competitor, Applicants focus on the combined company’s ability to compete with “premium” brands like Verizon and AT&T, as well as cable companies’ voice and data plans.<sup>15</sup> The proposed transaction could eliminate Sprint and T-Mobile as companies with affordable service offerings and reasonably priced equipment, and, instead, create a “third

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<sup>8</sup> *Id.* at 8717.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

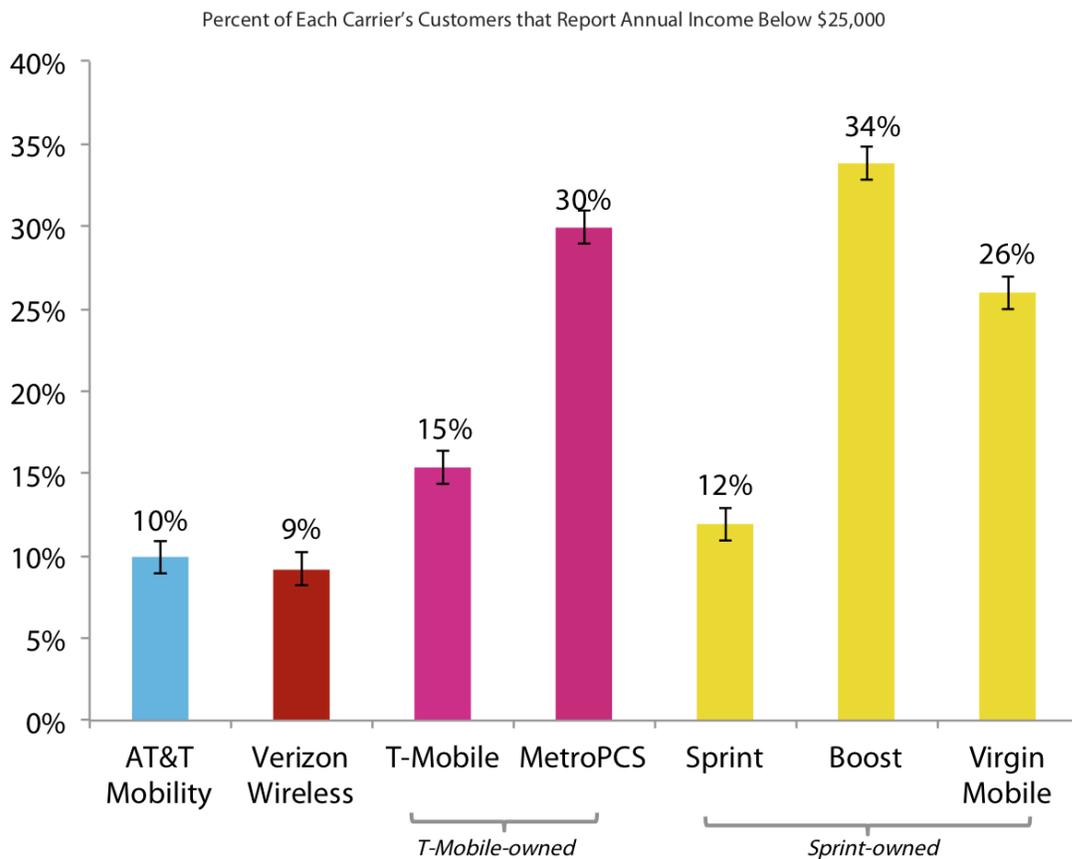
<sup>13</sup> *Id.*

<sup>14</sup> Application at 84 *et seq.*

<sup>15</sup> Application, Appendix A, Declaration of John Legere at ¶ 24.

AT&T/Verizon” that lacks the incentive to serve lower-income or low-margin customers. In fact, the Federal Trade Commission and Department of Justice’s Horizontal Merger Guidelines expressly acknowledge that a combined company may have the incentive to eliminate lower-cost offerings in order to drive customers to more expensive (and more profitable) offerings.<sup>16</sup> This issue is of particular concern because Sprint’s and T-Mobile’s customers are far more likely to be lower income:

### T-Mobile and Sprint Customers are Disproportionately Lower-Income



Source: S&P Global Market Intelligence MediaCensus survey of 10,000 U.S. internet adults conducted in February 2018. Values for each carrier represent the percent of survey respondents claiming that brand as their carrier who reported their income as less than \$25,000 per year.

<sup>16</sup> *Horizontal Transaction Guidelines*, U.S. DEPARTMENT OF JUSTICE AND THE FEDERAL TRADE COMMISSION 22-23, Aug. 19, 2010, available at [http://www.ftc.gov/sites/default/files/attachments/transaction-review/100819\\_hmg.pdf](http://www.ftc.gov/sites/default/files/attachments/transaction-review/100819_hmg.pdf). (hereafter, Horizontal Merger Guidelines).

In fact, the Application provides evidence that the combined company will have ample incentives to neglect value-conscious customers while pursuing higher average revenue per user (ARPU) customers. Applicants claim that the combined company will invest \$40 billion dollars in the first three years after closing to expand the combined company's business.<sup>17</sup> It appears that at least some of that \$40 billion investment will come in the form of company-incurred debt.<sup>18</sup> As Applicants acknowledge, the combined company will need an increased customer base to spread out network costs.<sup>19</sup> The need to repay this debt creates a strong incentive for the new company to go after wide base of higher-ARPU customers, neglecting more value-conscious customers. This appears to be the combined company's plan, as the Application notes that the combined company plans to aggressively "grow its customer base in anticipation of cross-selling [presumably more expensive] 5G services to existing customers."<sup>20</sup>

It is worth noting that the Joint Applicants' FCC Application contains a lengthy economic analysis claiming that the merger would not increase the risk of coordinated anticompetitive conduct.<sup>21</sup> However, this economic analysis fails to address the proposed transaction's potential **unilateral** competitive effects. For example, post-merger, the combined company could increase prices for, or eliminate, value conscious service plans that T-Mobile and Sprint currently offer, but that are not available through AT&T and Verizon.<sup>22</sup> Similarly, the merger could decrease innovation in the marketplace because, despite Applicants' vigorous assertions otherwise, it could eliminate the role of the "maverick" that pushes the envelope to develop new products and services targeted to the value conscious consumer that could capture

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<sup>17</sup> Application, Appendix C, Declaration of G. Michale Sievert at ¶ 12 (hereafter, Sievert Declaration).

<sup>18</sup> Application at 86.

<sup>19</sup> Application, Appendix D, Declaration of Peter Ewens at ¶ 20.

<sup>20</sup> Application at 125.

<sup>21</sup> Application, Appendix H, Joint Declaration of Steven C. Salop and Dr. Yianis Sarafidis.

<sup>22</sup> See Horizontal Merger Guidelines at 20. This is particularly true where customers of one of the merging companies consider the other merging company to be their next best choice. *Id.*

substantial revenue from the other companies and pushes those companies to similarly adapt and improvise.<sup>23</sup>

For low-income families, wireless service is often the only means a family has to make phone calls or access the Internet at home. The Application does not contain a sufficiently comprehensive analysis of the proposed transaction's impacts on low-cost services, and low-income communities. Greenlining respectfully requests that the Commission not approve the proposed transaction without first determining how the proposed transaction will affect the ability of low-income households in California to access affordable phone and broadband services.

### **3. Applicants have not Provided Sufficient Evidence of the Transaction's Effects on Communities of Color.**

While 14% of white consumers are “smartphone dependent,” i.e. rely on only their smartphone as their means of Internet access, for communities of color that number is much higher: 24% of African-Americans and 36% of Latinx consumers are smartphone dependent.<sup>24</sup> The proposed transaction promises to eliminate a competitor in communities of color. The elimination of Sprint in these communities could reduce competitive choice and cause unique harm to those communities through higher prices, poor customer service or service quality and fewer plan choices that meet their needs. Greenlining respectfully requests that the Commission not approve the proposed transaction without first determining how the transaction will affect communities of color and asks that the Commission specifically examine the Los Angeles market.

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<sup>23</sup> Horizontal Merger Guidelines at 23.

<sup>24</sup> Pew Research Center, Internet/Broadband Fact Sheet (Feb. 5, 2018), *available at* <http://www.pewinternet.org/fact-sheet/internet-broadband/> (last accessed August 15, 2018).

#### **4. Applicants have not Provided Sufficient Evidence of the Transactions' Effects on Rural Communities.**

The Joint Applicants' FCC Application states that the combined company will make a "significant economic investment" in rural America through high quality mobile broadband and fixed wireless services.<sup>25</sup> While this statement is encouraging, it does not go far enough. The Commission must ensure that the transaction is in the public interest.<sup>26</sup> Yet, the Application only discusses general improvements to services in rural areas and provides statistics that reflect its plans nationwide and provides no specific details about where these improvements will occur or on what timeline. While the transaction may allow the combined company to leverage the acquired Sprint network, cell towers, and spectrum and shift more resources into rural areas, it provides little detail except to make vague promises to "accelerate and expand" its plans to bring "improved" broadband to rural areas and to use its resources to offer services "more commensurate" with those available to urban consumers.<sup>27</sup>

The Application states that the combined company will allow current roaming partners in rural communities to choose the most favorable terms from the *existing* Sprint or T-Mobile roaming agreements seeming to propose merely the status quo and making no promises to use merger synergies to improve the quality, terms, or rates of roaming services that could ultimately benefit rural customers.<sup>28</sup> The Application criticizes Sprint's limited capacity in rural areas, but also fails to note that this transaction will eliminate Sprint as a competitor offering roaming services, thus possibly offsetting gains, at least in part, in improved roaming from the transaction.

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<sup>25</sup> Sievert Declaration at ¶ 17

<sup>26</sup> AT&T/Cellco Order at 8716.

<sup>27</sup> Application at 64-65.

<sup>28</sup> *Id.* at 69.

The Joint Applicants also promise over 600 new stores in “small towns and rural communities,” additional customer service call centers to be located in rural areas, along with 12,000 new jobs for rural Americans.<sup>29</sup> Yet, the specific locations for these stores and customer service centers are undecided, 500 of the 600 stores will be “dealer” stores where the Applicants have no control over the hiring and firing of employees, and, as discussed above, the Application makes no mention of whether a commensurate number of Sprint stores, customer service centers, and employees will be negatively impacted by this transaction. Moreover, there is no way to determine from the Applications where those stores and jobs will be located, whether they would have come to these areas apart from this transaction, and whether the Applicants have done any analysis to ensure the promised benefits will meet the needs of specific rural communities. Greenlining urges the Commission to closely review the impact of this transaction on rural communities and to require the Joint Applications to provide specific commitments, details and data to demonstrate network expansion, additional stores, improved roaming and increased jobs directly as a result of this transaction.

#### **5. Applicants have not Provided Sufficient Evidence that Customers Will Not Be Affected.**

The Application provides some detail about plans to transition T-Mobile and Sprint customers to the combined network.<sup>30</sup> However, unlike the vast majority of applications in mergers of this size and scope, the Application contains a glaring omission. The Application contains no assurances that existing Sprint and T-Mobile customers will be able to keep their existing plans at existing prices. There is a substantial risk that immediately after closing, the combined company could increase rates or impose more onerous terms and conditions of service

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<sup>29</sup> Sievert Declaration at ¶ 17-19. It should be noted that the Applicants’ job estimates are based on an apparently unreleased “internal analysis.” Application at 81.

<sup>30</sup> Application at 38.

on existing subscribers. Accordingly, the Commission should consider this risk when evaluating the effects of the proposed transaction on the public interest, further investigate the effects of the proposed transaction on existing customers and consider conditions to mitigate this harm.

**6. Applicants have not Provided Sufficient Evidence of the Transaction’s Effects on the Availability of Lifeline to Low-Income Consumers.**

Sprint-owned Virgin Mobile offers Lifeline service through its Assurance brand, providing vital discounted services to low-income households, including hundreds of thousands low income Californians.<sup>31</sup> Additionally, Boost Mobile, a subsidiary of Sprint Corporation, has recently proposed a Lifeline pilot project in the Commission’s Lifeline proceeding to target specific low income communities.<sup>32</sup> T-Mobile, on the other hand, has never been part of the Lifeline program in California and only offers discounted federal Lifeline service in approximately nine other states.<sup>33</sup> The Application makes the highly qualified statement that, “New T-Mobile will also continue the Lifeline services currently provided by T-Mobile and Sprint.”<sup>34</sup> First, this statement contains no commitment regarding time or scope (promising to only continue those services currently being provided by the companies). But more importantly, it is difficult to corroborate this statement with the move by T-Mobile to eliminate Lifeline plans in seven states in 2017 and public statements by T-Mobile executives last year that the Lifeline

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<sup>31</sup> See, 2018 Third Party Administrator LifeLine Customer Counts, <http://www.cpuc.ca.gov/General.aspx?id=1100>.

<sup>32</sup> Boost Mobile, Boost Mobile as a Potential Lifeline Provider In California (2018), available at [http://www.cpuc.ca.gov/uploadedFiles/CPUC\\_Public\\_Website/Content/Utilities\\_and\\_Industries/Communications\\_-\\_Telecommunications\\_and\\_Broadband/Consumer\\_Programs/California\\_LifeLine\\_Program/Boost%20Mobile.pdf](http://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/Utilities_and_Industries/Communications_-_Telecommunications_and_Broadband/Consumer_Programs/California_LifeLine_Program/Boost%20Mobile.pdf) (last accessed August 14, 2018).

<sup>33</sup> T-Mobile, LifeLine Program, available at <https://www.t-mobile.com/offers/lifeline-program> (last accessed August 16, 2018). There is some uncertainty regarding the data and how T-Mobile counts the customers from its wholesale services that it sells to current non-facilities based Lifeline providers.

<sup>34</sup> Application at 51, note 177.

program is “uneconomical” and that it plans to eliminate its voluntary participation in state and federal Lifeline programs all together.<sup>35</sup>

The proposed transaction has the potential to reduce competition for Lifeline services, because if the combined company does not offer Lifeline, the transaction could both (1) eliminate Assurance/Boost as a potential entrant in some markets and (2) eliminate Assurance/Boost as a competitor where it currently operates.<sup>36</sup> Although the combined company would benefit from the transaction by acquiring more market power, it appears that it will not leverage this benefit to provide affordable service to Lifeline-eligible customers. If the transaction results in a loss to the Lifeline program and less value for Lifeline eligible customers in California, the transaction will not be in the public interest. The Commission should examine the public interest harms that would result from the new company’s withdrawing or failing to offer Lifeline service, especially for the combined company’s low-income, disabled, and elderly consumers’ ability to have quality and accessible phone service and require the company to expand its participation in the program.

### **7. The Proposed Transaction Promises to Harm Diversity and Inclusion Unless the Commission Requires Additional Commitments.**

Supplier, workforce, management, and ownership diversity are issues of public interest, particularly in a state as diverse as California.<sup>37</sup> In their application at the California Public

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<sup>35</sup> See, “CFO: ‘Non-sustainable’ T-Mobile Lifeline Business to be Phased Out”, Telecompetitor, June 8, 2017, found here <https://www.telecompetitor.com/cfo-non-sustainable-t-mobile-lifeline-business-to-be-phased-out/>; TG-Mobile’s CFO Wants to Get Rid of Lifeline Program, AndroidHeadlines (June 9, 2017) <https://www.androidheadlines.com/2017/06/t-mobiles-cfo-wants-to-get-rid-of-lifeline-program.html>

<sup>36</sup> Horizontal Merger Guidelines at 20.

<sup>37</sup> Fed. Comm. Comm’n, Press Release, Chairman Pai Announces Intent to Establish Advisory Committee on Diversity and Digital Empowerment (April 24, 2017), available at <https://www.fcc.gov/document/chairman-pai-announces-plan-form-advisory-committee-diversity> (last accessed August 26,2018); See Cal. Pub. Util. Comm’n, Commission General Order 156 (June 11, 2015), available at <http://docs.cpuc.ca.gov/publisheddocs/published/g000/m152/k827/152827372.pdf> (last accessed August 26, 2018).

Utilities Commission, Applicants claim that both T-Mobile and Sprint are “devoted to the concept of creating value through diversity.”<sup>38</sup> Greenlining agrees that Sprint has generally demonstrated a commitment to supplier diversity. Greenlining’s 2017 Supplier Diversity Report Card gave Sprint an “A” grade for its 2016 spend with Minority Business Enterprises (MBEs).<sup>39</sup> T-Mobile, however, received a “C-” grade for its 2016 MBE spend.<sup>40</sup> Greenlining has serious concerns that the transaction will eliminate Sprint, the wireless industry leader in supplier diversity spending, that the Application does not concretely refute the possibility, and that the combined company will instead perpetuate T-Mobile’s lackluster supplier diversity efforts. The Commission’s transaction assessment should include an investigation of the new company’s commitment to diversity.

### **8. Applicants Must Provide Assurances that the Transaction will not Impact Public Safety and Emergency Communications**

As more and more Californians rely on wireless communications for almost every aspect of their daily lives, it is critical that consumers have access to robust and reliable wireless emergency services communications. Wireless emergency communications capabilities, including Enhanced 911 and improved location accuracy, have slowly evolved through a winding and sometimes bumpy path.<sup>41</sup> However, it is undisputed that the industry and federal regulators have made significant gains in the past several years to improve 911 service quality and capabilities. Given that the Commission has repeatedly emphasized the importance of public

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<sup>38</sup> Joint Application For Review of Wireless Transfer Notification per Commission Decision 95-10-032 at 20, In the Matter of the Joint Application of Sprint Spectrum L.P. (U-3062-C), and Virgin Mobile USA, L.P. (U-4327-C), and T-Mobile USA, Inc., a Delaware Corporation, For Review of Wireless Transfer Notification per Commission Decision 95-10-032 (July 13, 2018), *available at* <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M217/K574/217574855.PDF> (last accessed August 26, 2018).

<sup>39</sup> The Greenlining Institute, *Sprint* (2017), *available at* [http://Greenlining.org/wp-content/uploads/2017/09/SDRC-2017-Single-Company-spreads\\_Sprint.pdf](http://Greenlining.org/wp-content/uploads/2017/09/SDRC-2017-Single-Company-spreads_Sprint.pdf) (last accessed August 14, 2018).

<sup>40</sup> The Greenlining Institute, *T-Mobile* (2017), *available at* [http://Greenlining.org/wp-content/uploads/2017/09/SDRC-2017-Single-Company-spreads\\_T-Mobile.pdf](http://Greenlining.org/wp-content/uploads/2017/09/SDRC-2017-Single-Company-spreads_T-Mobile.pdf) (last accessed August 14, 2018).

<sup>41</sup> For a high-level description of the history, see *The History of 911: A Timeline* (February 12, 2018) <https://www.west.com/blog/safety-services/history-911-timeline/>.

safety and robust emergency communications, and the recent reminders of how devastating emergencies and natural disasters can be, it is surprising that neither the Wireless nor Wireline Application discusses the impact of this transaction on 911 and emergency communications capabilities.

The Commission has imposed detailed rules and regulations on wireless providers to support E911 and location accuracy capabilities.<sup>42</sup> As part of these rules, there is a strict timeline for wireless providers to implement improved location accuracy for E911 calling, including indoor location accuracy.<sup>43</sup> However, the FCC also gave providers the option of requesting an exemption for narrowly defined geographic areas from compliance with some location accuracy requirements due to technical issues, issues with local emergency services agencies, or characteristics of the area.<sup>44</sup> Joint Applicants urge the Commission not to approve this transaction until it more fully understands each of the Joint Applicant's experience with implementation of E911 and location accuracy requirements.<sup>45</sup> If either party or their affiliates are not in full compliance, the Commission should request a timeline and compliance plan. Before declaring that this transaction is in the public interest, the Commission must know if both companies are committed, cooperative and currently in compliance with federal 911 rules and, if not, whether the combined company will have the resources to improve emergency communication capabilities.

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<sup>42</sup> Wireless E911 Location Accuracy Requirements, Fourth Report and Order, 30 FCC Rcd 1259 (2015); 47 CFR §20.18.

<sup>43</sup> 47 CFR §20.18(g)-(i)

<sup>44</sup> See, generally, 47 CFR §20.18 (for example, §20.18(h)(1)(vi) allowing carriers to exclude counties where triangulation is not possible due to line of sight issues.)

<sup>45</sup> Current reports filed with the FCC by wireless providers are, at best, high level, but seem to suggest both Applicants are on track at this time. Neither report discusses requested exemptions or issues in specific geographic locations. See, T-Mobile's 36 Month Progress Report for Implementing the FCC's Fourth Report and Order on Wireless E911 Location Accuracy Requirements (August 3, 2018).

**9. Applicants have not Provided Sufficient Evidence That the Purported Benefits of the Transaction are Merger-Specific.**

The Commission does not consider the purported benefits of a transaction if those purported benefits are “vague, speculative, or otherwise cannot be verified by reasonable means.”<sup>46</sup> As discussed above, while Applicants claim a number of purported benefits, the Application does not contain enough information for the Commission to verify those benefits. Accordingly, Greenlining respectfully requests that the Commission reject those claims unless Applicants shows that these benefits are a verifiable public interest gain from this transaction and offset the potential competitive harms from further consolidation in the market.

**C. IF THE COMMISSION DOES APPROVE THE PROPOSED TRANSACTION, IT SHOULD IMPOSE CONDITIONS TO PROTECT THE PUBLIC INTEREST.**

The Commission can prescribe restrictions or conditions that may be necessary to carry out the provisions of the Communications Act.<sup>47</sup> The Commission can use its “...extensive regulatory and enforcement experience to impose and enforce conditions to ensure that the transaction will yield overall public interest benefits.”<sup>48</sup> As drafted, the Application does not provide sufficient information, analysis, or commitments to demonstrate substantial public interest benefits to consumers or to diffuse concerns regarding the risk of public interest harms. As discussed above, Applicants’ failure to provide sufficient evidence of merger effects, combined with the possibility that the proposed transaction could cause additional public interest harms, create a very real risk that the proposed transaction could be adverse to the public interest. Greenlining respectfully requests that the Commission conduct a full investigation of the above-listed issues to determine whether the proposed transaction is in the public interest.

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<sup>46</sup> Horizontal Merger Guidelines at 31.

<sup>47</sup> 47 U.S.C. § 303, subdivision (f); AT&T/Cellco Order at 8717-8718.

<sup>48</sup> AT&T/Cellco Order at 8718.

If the Commission finds that the transaction does not meet the public interest statutory standard, before it approves the Applications, it should impose mitigation measures sufficient to ensure that the proposed transaction is in the public interest. Should the Commission approve the Applications, the Commission should impose mitigation measures that will preserve competition, protect consumers and ensure that the new company passes through the economic benefits of the transaction. Finally, the Commission must take care to craft detailed mitigation measures with measurable performance metrics, and substantial penalties if the new company fails to meet those metrics.

## **CONCLUSION**

Greenlining supports well-designed industry measures that increase the availability of affordable communications services to communities of color and low-income consumers. While the proposed transaction has the potential to achieve this goal, Applicants have not yet provided sufficient proof that the alleged benefits of the proposed transaction are likely to occur. Accordingly the Commission should either deny the applications or impose conditions to ensure that communities of color and low-income consumers can take advantage of the benefits of telephone, video and broadband services that should be available to everyone.

For the above-stated reasons, Greenlining respectfully requests that the Commission deny the proposed transaction or impose conditions to protect the public interest.

Respectfully submitted,

Dated: August 27, 2018

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## Declaration of Paul Goodman

My name is Paul Goodman. I am Legal Counsel-Telecommunications of the Greenlining Institute.

The Greenlining Institute is a national policy, organizing and leadership institute working for racial and economic justice. The Greenlining Institute's mission is to empower communities of color and other disadvantaged groups through multi-ethnic economic and leadership development, civil rights, and anti-redlining activities. We also advocate before regulatory agencies to advance these goals.

Members of the communities served by the Greenlining Institute reside in areas served by T-Mobile and Sprint services, and many are subscribers to those services. Moreover, members of the communities served by Greenlining Institute and employees of the Greenlining Institute are subscribers to other service providers who will be impacted by the proposed merger.

I am familiar with the contents of the foregoing Petition to Deny. The factual assertions made in the petition are true to the best of my knowledge and belief.

I declare that the foregoing is true and correct.

Executed on August 27, 2018.

/s/ Paul Goodman  
Paul Goodman