

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

Applications of)
Sprint Nextel Corporation) WT Docket No. 08-94
And)
Clearwire Corporation)
For Approval to Transfer Control)

To: The Commission

COMMENTS OF SOUTHERNLINC WIRELESS

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Dated: July 24, 2008

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Southern Communications Services, Inc. d/b/a SouthernLINC Wireless (“SouthernLINC Wireless”) hereby submits its comments on the applications of Sprint Nextel Corporation (“Sprint Nextel”) and Clearwire Corporation (“Clearwire”) (collectively, “Applicants”) for approval of the transfer of control of licenses, authorizations, and *de facto* transfer spectrum leases held by Sprint Nextel and Clearwire to a new wireless broadband company (“New Clearwire”) to be jointly owned by Applicants and a group of strategic investors.¹

Through this proposed transaction, Applicants seek to combine their 2.5 GHz spectrum assets, infrastructure, and technical and operational expertise to establish a new nationwide mobile wireless network and “offer next-generation wireless broadband services to the American

¹ / Public Notice, “Sprint Nextel Corporation and Clearwire Corporation Seek FCC Consent to Transfer Control of Licenses and Authorizations,” WT Docket No. 08-94, DA 08-1477 (rel. June 24, 2008) (“Public Notice”); *Applications of Sprint Nextel Corporation and Clearwire Corporation for Approval to Transfer Control*, File No. 0003462540, Description of the Transaction and Public Interest Statement (amended June 24, 2008) (“Public Interest Statement”).

public.”² Applicants state that “New Clearwire will permit a number of unaffiliated firms to purchase access to its advanced wireless broadband service on a non-exclusive wholesale basis and resell that service directly to consumers in competition with New Clearwire and other wireline and wireless providers.”³ According to Applicants, “By providing wholesale access to its nationwide WiMAX network, New Clearwire has the potential to generate even more new forms of competition and further enhance consumer choice.”⁴

In addition, Applicants have committed to allowing consumers to use any lawful device that they want (provided it is compatible with and does not cause harm to the network) and to download and use any software applications, content, or services they desire.⁵ Applicants state that this open network concept “will permit customers to purchase a variety of devices through any number of consumer electronics distribution channels, connect to the network, activate the device, and select from a variety of rate plans without having to purchase devices or applications from New Clearwire itself.”⁶ According to Applicants, “Taken together with its provision of non-exclusive wholesale access to its WiMAX service, the unparalleled openness of the New Clearwire network will generate new forms of competition among software applications providers, content providers, device manufacturers, and resellers to create a rich broadband environment for consumers.”⁷

As a regional carrier, SouthernLINC Wireless would certainly be interested in entering into new business relationships that would provide access to additional capacity and potentially

² / Public Interest Statement at 2.

³ / *Id.* at 21.

⁴ / *Id.* at 22.

⁵ / *See, e.g., Id.* at 25 – 28.

⁶ / *Id.* at 26.

⁷ / *Id.* at 27 – 28.

allow it to expand the range of services it offers. However, as the wireless sector continues to consolidate and spectrum holdings become increasingly concentrated among fewer (and larger) companies – as evidenced by Verizon Wireless’ pending acquisition of Alltel – access to spectrum is becoming increasingly scarce, particularly for regional and rural service providers.

Accordingly, SouthernLINC Wireless welcomes Applicants’ statements and commitments to the Commission and to the public. If Applicants should, in fact, follow through on their commitment to provide wholesale broadband wireless services to unaffiliated firms, the proposed transaction could provide significant public benefits, such as greater access to a broader variety of services, service providers, and service options for a greater number of US consumers, including those in rural and underserved areas. On the other hand, if the Applicants’ commitment should turn out to be less than what it seems, the proposed transaction may result in less competition and consumer choice through the consolidation of even more spectrum into the hands of a few large players. While SouthernLINC Wireless is hopeful that this is not the case, past experience demonstrates the need for greater clarity regarding the actual extent of Applicants’ commitments before the Commission approves the requested transfers of control.

Again, SouthernLINC Wireless welcomes the public statements of Sprint Nextel and Clearwire regarding their willingness and intention to provide wholesale access to unaffiliated companies. SouthernLINC assumes that this would include companies like itself, that may compete head-to-head with the Applicants. At the same time, it remains keenly cognizant of its arduous history with Sprint Nextel regarding access to roaming services. As the Commission is aware, it took multiple years of effort and negotiation before Sprint Nextel agreed to provide SouthernLINC Wireless with automatic roaming for basic voice services. It was not until this year that Sprint Nextel was willing to even discuss roaming for push-to-talk (PTT) services

because it is now required by rule to do so pursuant to the Commission's *2007 Roaming Order*.⁸ And despite repeated requests by SouthernLINC Wireless, Sprint Nextel still refuses to discuss automatic roaming for data services. And access to data roaming continues to be a significant issue for customers of smaller rural and regional carriers as the extensive record in the FNPRM on data roaming attests.⁹

For these reasons, SouthernLINC Wireless submits that there are legitimate grounds for concern regarding Applicants' promise that "[t]he new company will even permit unaffiliated firms to acquire its broadband service on a wholesale basis, which" according to Applicants, "would further enhance competition."¹⁰ SouthernLINC Wireless therefore urges Applicants to expand upon the statements they have made to the Commission in order to provide greater clarity and certainty regarding their intentions with respect to wholesale broadband access to the proposed New Clearwire network, as well as to provide the Commission and the public with the necessary assurance that the proposed transaction will lead to enhanced competition, rather than further consolidation and concentration of service provider options and spectrum resources. Since the Applicants have urged the Commission to weigh their commitments to network access as a pro-competitive element of this transaction, we urge the Commission to fully examine this aspect of their proposal to ensure that it will in fact deliver these public interest benefits.

If the applicant's statements in fact mean only that they will allow only select entities to have wholesale access, the Commission should refrain from acting on the application until the

⁸ / *Reexamination of the Roaming Obligations of Commercial Mobile Radio Service Providers*, WT Docket No. 05-265, Order, 22 FCC Rcd 15817 (2007) ("*2007 Roaming Order*").

⁹ *See Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers*, WT Docket No. 05-265, *Further Notice of Proposed Rulemaking*, FCC 07-143, at ¶ 79 (Aug. 16, 2007), *published in* 72 Fed. Reg. 50085 (Aug. 30, 2005) ("*Data Roaming NPRM*").

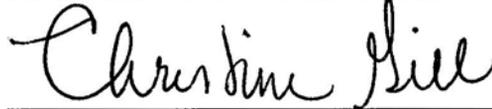
¹⁰ / Public Interest Statement at 59.

Commission puts in place mandatory data roaming obligations to redress the significant market concentration in the wireless sector.

WHEREFORE, THE PREMISES CONSIDERED, SouthernLINC Wireless respectfully requests the Commission to take action in this docket consistent with the views expressed herein.

Respectfully submitted,

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