

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17120

**Application of Sprint Communications
Company L.P. for Approval of a General
Rule Indirect Transfer of Control from
Softbank Group Corp. to T-Mobile USA,
Inc.**

**Public Meeting held May 23, 2019
3003259-TUS**

Docket No. A-2018-3003259

STATEMENT OF CHAIRMAN GLADYS BROWN DUTRIEUILLE

This case involves the Application, filed on July 6, 2018, of Sprint Communications, a certificated competitive local exchange carrier (CLEC) and interexchange carrier (IXC) provider of wholesale telecommunications, for approval of a merger that transfers the control of Sprint's parent, Sprint Corporation, from Softbank Group to T-Mobile USA Inc. Section 1102 of the Public Utility Code, 66 Pa. C.S. § 1102, and caselaw precedent require the Commission to find that a merger demonstrates an affirmative public benefit.¹ The Commission has the discretion to impose conditions to ensure that any claimed affirmative public benefit will materialize.²

Sprint has continually cited to non-jurisdictional benefits like rural broadband deployment and traditional benefits such as job growth to support issuance of a jurisdictional certificate evidencing our approval.³ Information requests were sent to Sprint in December 2018, February 2019, April 2019, and May 2019 seeking detail on exactly how the claimed benefits would materialize in Pennsylvania. Sprint's responses referred to national impacts with a passing reference to Pennsylvania but without specifics.⁴

Although employment impacts unrelated to service quality are not squarely within this Commission's purview, here, the Commission can and should consider employment because it has been cited by the Applicants as a specific merger benefit under Section 1102 of the Code.⁵ In New York, Sprint agreed that there

¹ *City of York v. Pa. PUC*, 295 A.2d 825 (Pa. 1972); *Popowsky v. Pa. PUC*, 937 A.2d 1040 (Pa. 2007).

² *Popowsky v. Pa. PUC*, 937 A.2d 1040, n. 21 (Pa. 2007).

³ *Application of Sprint Communications Company L.P. for Approval of a General Rule Transaction of the Indirect Change in Control by Merger of Applicant from Softbank Group Corp. to T-Mobile US, Inc.* Docket A-2018-3003259 July 8, 2018, pp. 6-8; May 13, 2019 filing p. 17.

³ May 13, 2019 Filing, p. 8. *Accord Popowsky v. Pa. PUC*, 937 A.2d 1040 (Pa. 2007). *Accord Popowsky v. Pa. PUC*, 937 A.2d 1040 (Pa. 2007).

⁴ *See e.g., Application of Sprint Communications Company L.P. for Approval of a General Rule Transaction of the Indirect Change in Control by Merger of Applicant from Softbank Group Corp. to T-Mobile US, Inc.* Docket A-2018-3003259 July 8, 2018, pp. 6-8; May 13, 2019 filing p. 17.

⁴ *See e.g.,* May 13, 2019 Filing, p. 8.

⁵ May 13 Filing, p. 17.

will be no jurisdictional or non-jurisdictional job losses for 36 months.⁶ Sprint provided no such assurance here. A clarification or condition that there will be no job losses is needed to ensure that Pennsylvania benefits.

On the issue of the non-jurisdictional benefit of rural broadband that Sprint alleges, the record shows that the new entity plans to deploy several hundred less wireless sites after the merger compared to what would be deployed if there were no merger.⁷ Sprint also plans to maximize use of the remaining wireless sites by “de-duplicating” the overlapping sites and then putting spectrum and equipment functionalities on the remaining sites for 5G.⁸ The reduction in wireless sites for advanced 5G services contain no details or commitment to deploy any of the remaining cell sites to serve the 803,000 Pennsylvanians without wireline broadband as of 2016, or the 522,000 Pennsylvanians without access to wireless broadband today.⁹ Even though Sprint stated that this merger would extend rural broadband deployment in Pennsylvania, when pressed for details on unserved locations, Sprint chose not to provide those details claiming that the issue of wireless broadband was beyond the scope of this proceeding.¹⁰

I support reviewing Sprint’s financial filings dating from 2009. However, I also believe a buildout to unserved rural areas to support mobile broadband is appropriate as are assurances against job losses given that Sprint cited both of these items in support of the alleged affirmative public benefits of the merger.

For these reasons, I am voting no.

DATE: May 23, 2019



Gladys Brown Dutrieuille
CHAIRMAN

⁶ *Joint Petition of T-Mobile USA, Inc. and Sprint Communications Company L.P. for Approval of an Indirect Transfer of Control Pursuant to Sections 99 and 100 of the New York State Public Service Law*, CASE 18-C-0396 (February 7, 2019), p. 16.

⁷ December 3, 2018 Filing.

⁸ May 13, 2109 Filing, p. 6.

⁹ *In re: Matter of Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, GN Docket No. 17-199 (February 2, 2018), Appendix D-1, p. 62; *In the Matter of Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act*, GN Docket No. 15-191 (January 29, 2016), Appendix D, p. 67.

¹⁰ May 13, 2019 Filing, p. 11. *Accord Application of PPL Electric Utilities Corporation for Approval of Intercompany Restructuring*, Docket No. A2017-2629534 (Order entered April 25, 2019) (evidence of tax savings to a corporate parent that negatively impacted Pennsylvania’s tax revenues and the lack of any verifiable evidence of a benefit to other parties affected by the transaction other than the utility’s corporate family constituted a failure of the applicant’s burden of proving that approval of the transaction would provide affirmative public benefit or was necessary or proper for the service, accommodation, convenience, or safety of the public).