

Before the
Federal Communications Commission
Washington, D.C. 20554

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

ORDER

Adopted: August 22, 2018

Released: August 22, 2018

By the Chief, Wireless Telecommunications Bureau:

1. On August 17, 2018, the Communications Workers of America, Rural Wireless Association, NTCA – The Rural Broadband Association, Public Knowledge, Consumers Union, The Greenlining Institute, Common Cause, New America’s Open Technology Institute, Writers Guild of America West, Free Press, and Benton Foundation (Movants) filed a motion to stop the informal 180-day clock in this proceeding until T-Mobile US, Inc., and Sprint Corporation (Applicants) supplement their public interest statement to “adequately describe the extensive spectrum aggregation that will result from the proposed transaction.”1 The Movants further urge the Commission to establish a new pleading cycle, with petitions to deny due four weeks after the Applicants’ “submission of and the agency’s publication of sufficient information for the Commission and the public to sufficiently review the spectrum concentration that would result from the proposed merger.”2 The Movants alternatively request the Commission to extend the deadline for filing petitions to deny by four weeks, from August 27, 2018, until September 17, 2018.3

2. In support of their requests, the Movants assert that the Applicants have failed to provide essential information regarding spectrum aggregation that is necessary for the public and the Commission to conduct a comprehensive competition analysis.4 They find unacceptable the Applicants’ presentation of spectrum information on a county-by-county basis, pointing to the failure of the Applicants to provide a sum total of the spectrum they hold in each local market or to identify the amount by which their total spectrum holdings differ from the spectrum screen, and submitting the information in a PDF file instead

1 Motion of the Communications Workers of America, Rural Wireless Association, NTCA – The Rural Broadband Association, Public Knowledge, Consumers Union, The Greenlining Institute, Common Cause, New America’s Open Technology Institute, Writers Guild of America West, Free Press, and Benton Foundation To Stop the Clock, or in the Alternative Motion for Extension of time, WT Dkt. No. 18-197, at 1 (filed Aug. 17, 2018) (Motion).

2 Id. at 1-2.

3 Id. at 2.

4 Id.

of a spreadsheet format.<sup>5</sup> They describe Information Requests from the Commission that seek certain data as an acknowledgment of the insufficiency of the Applicants' submission, stating that "[t]he Applicants' failure to provide complete spectrum aggregation charts has already been acknowledged by the Commission," as reflected in "a data request to the parties to provide market-by-market spectrum license information, in a csv format."<sup>6</sup> According to the Movants, the Applicants attempt to "obfuscate the extent of the proposed spectrum aggregation in this transaction by submitting incomplete spectrum charts and a threadbare spectrum aggregation narrative."<sup>7</sup>

3. The Movants claim that starting a new pleading cycle only after the Applicants have submitted the additional information they request is necessary to provide the public with access to complete application documents and adequate time to review and comment.<sup>8</sup> The Movants also assert that an extension of time in this proceeding is warranted in light of the "mounting filing deadlines in concurrent proceedings of great importance and complexity."<sup>9</sup> The Movants also claim that Jewish holidays in mid-September further support an extension of the petition to deny period until September 17, in the event that the Commission does not stop the clock.<sup>10</sup>

4. The Applicants oppose grant of the Motion.<sup>11</sup> The Applicants point out that Section 1.46(a) of the Commission's rules provides that "extensions of time shall not be routinely granted,"<sup>12</sup> and assert that the Movants "have demonstrated no legitimate grounds for the relief they request."<sup>13</sup> According to the Applicants, the spectrum holdings information sought by the Movants was filed as part of the applications on June 18, 2018, and has been available to the public for nearly two months.<sup>14</sup>

5. In response to specific bases relied upon by the Movants in support of their motion, the Applicants state that the PDF file can easily be converted to a spreadsheet that can then be manipulated electronically.<sup>15</sup> The Applicants also assert that the Commission's request for market-by-market spectrum license information, in a csv format, is not an acknowledgment by the Commission that the Applicants' spectrum aggregation information is somehow deficient, since the requested data could not be used in a spectrum screen analysis.<sup>16</sup>

6. The Applicants argue that the Movants are incorrect that the spectrum aggregation information submitted with the applications does not meet applicable standards for disclosure, and that the public interest statement and related declarations in fact discuss claims of the public interest benefits

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<sup>5</sup> *Id.* at 3-4.

<sup>6</sup> *Id.* at 5.

<sup>7</sup> *Id.* at 4-5.

<sup>8</sup> *Id.* at 5.

<sup>9</sup> *Id.* at 5-6.

<sup>10</sup> *Id.* 7.

<sup>11</sup> Joint Opposition of T-Mobile US, Inc., and Sprint Corporation, WT Dkt. No. 18-197 (filed Aug. 20, 2018) (Joint Opposition).

<sup>12</sup> *Id.* at 1, citing 47 CFR § 1.46(a).

<sup>13</sup> Joint Opposition at 2.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at 2-3.

<sup>16</sup> *Id.* at 3.

associated with the proposed combination of assets, specifically including the spectrum holdings.<sup>17</sup> They also point out that the Commission has recently made clear that if parties believe transaction applications are substantially incomplete or lack the information to establish that a proposed transaction is in the public interest, it is appropriate for the parties to file a petition to deny on those grounds.<sup>18</sup> Finally, the Applicants point out that the Jewish holidays relied upon by the Movants both occur after the current deadline for the filing of petitions to deny.<sup>19</sup>

7. We deny the Motion in all respects and decline to stop the clock or extend the current pleading schedule under which petitions to deny currently are due on August 27, 2018. As Section 1.46(a) of the Commission's rules provides, "[i]t is the policy of the Commission that motions for extensions of time shall not be routinely granted."<sup>20</sup> This policy has been followed in numerous recent transaction proceedings.<sup>21</sup> Although the Commission encourages the widest possible public participation and has a strong interest in ensuring that the record is complete and fully developed with respect a proposed transaction,<sup>22</sup> the Movants have failed to establish any basis for granting the extension they seek. If the Movants find the data submitted by the Applicants to be deficient, then they certainly may rely on that deficiency to support arguments in a petition to deny the proposed transaction. Moreover, the Commission's Information Requests to the Applicants serve as a means of obtaining additional information, not as a statement of the deficiency or adequacy of any part of those applications. While we understand that this may be a busy period for the Movants in light of pending proceedings before the Commission and the Federal Trade Commission, that fact does not support grant of an extension of time. Finally, the timing of Jewish holidays in September, after the current scheduled petition to deny due date, does not warrant granting an extension of time for such filings.

8. ACCORDINGLY, IT IS ORDERED, that the Motion To Stop the Clock, or in the Alternative Motion for Extension of Time is DENIED. This action is taken pursuant to authority delegated under Section 0.331 of the Commission's rules, 47 CFR § 0.331, and is effective upon its adoption.

FEDERAL COMMUNICATIONS COMMISSION

Donald K. Stockdale, Jr.  
Chief  
Wireless Telecommunications Bureau

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<sup>17</sup> *Id.* at 4.

<sup>18</sup> *Id.* at 4-5, citing *Tribune Media Company (Transferor) and Sinclair Broadcast Group, Inc. (Transferee) Consolidated Applications for Consent to Transfer Control*, Order, 32 FCC Rcd 5799, 5801, para. 8 (2017) (*Tribune-Sinclair Order*).

<sup>19</sup> Opposition at 5.

<sup>20</sup> 47 CFR § 1.46(a).

<sup>21</sup> See, e.g., *Tribune-Sinclair Order*, 32 FCC Rcd at 5799, 5802, para. 11; *Applications of Comcast Corp., Time Warner Cable Inc., Charter Communications, Inc., and SpinCo for Consent To Assign or Transfer Control of Licenses and Authorizations*, Order, 29 FCC Rcd 10099, 10099, para. 1 (2014) (*Comcast-Time Warner-Charter Order*).

<sup>22</sup> *Comcast-Time Warner-Charter Order*, 29 FCC Rcd at 100100-01, para. 4.