

## EXPLANATION OF TRANSACTION AND PUBLIC INTEREST STATEMENT

This application is the lead application in a series of applications<sup>1</sup> whereby Data Truck, LLC (“Data Truck”), and RC Technologies (“RCT” and with Data Truck the “Assignors”), licensees of Broadband Radio Service Stations (“BRS Stations”) B464 licensed to Data Truck and call signs WLK327, WLK330 and WNTK288 licensed to RCT located in Watertown, South Dakota area seek Federal Communications Commission (“Commission”) consent to the assignment of the BRS Stations to Clearwire Spectrum Holdings III LLC, (“Clearwire”) a wholly-owned indirect subsidiary of T-Mobile US, Inc. (collectively “T-Mobile”).

In addition to the assignment of the BRS Stations above, RCT is leasing Educational Broadband Service Stations (“EBS Stations and with the BRS Stations the “Stations”) WNC826 (Summit School District 54-6 (“Summit”)), WNC960 (Deuel School District 19-4 (“Deuel”)) and WNC959 (Waverly School District (“Waverly” and with Summit and Deuel the “EBS Licensees”). RCT has recently exercised its purchase options for the EBS Stations and has agreed to transfer its purchase rights to T-Mobile who seeks Commission consent to the assignment of these EBS Stations to T-Mobile.

### Description of the Parties

Applicant is a wholly owned subsidiary of T-Mobile USA, Inc. and, indirectly, T-Mobile US, Inc., (collectively “T-Mobile”) a U.S.-organized, publicly traded company and part of the family of companies that operate under the T-Mobile® brand names. Deutsche Telekom AG (“DT”), a publicly traded German company,<sup>2</sup> holds approximately a 48.3 percent interest in T-Mobile through its wholly owned subsidiary T-Mobile Global Zwischenholding GmbH. This subsidiary owns all of the equity and voting interests of T-Mobile Global Holding GmbH, which owns all of the equity and voting interests of Deutsche Telekom Holding B.V., which in turn holds the approximately 48.3 percent interest in T-Mobile. DT has *de facto* control over T-Mobile – and thus Applicant – as a result of proxy agreements that authorize DT to vote a majority of the stock of T-Mobile. As a result, DT is deemed to indirectly hold 100 percent of the ownership interests in Applicant.

Led by a management team with decades of collective experience in the telecommunications industry, T-Mobile, headquartered in Bellevue, Washington, offers nationwide wireless voice and data services to consumer and business customers and provides service to 108.7 million customers.<sup>3</sup> The Commission has repeatedly found that Assignee and its controlling companies have the requisite character and qualifications to hold Commission

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<sup>1</sup> The file numbers of the other applications in the series are: 0010038350, 0009942441, 0009942441 and 0009914351.

<sup>2</sup> Germany is a signatory to the World Trade Organization Basic Agreement on Telecommunications.

authorizations.<sup>4</sup> An FCC Form 602 providing current ownership information for T-Mobile US is on file with the Commission.<sup>5</sup>

### **Transaction Description**

Assignors and Clearwire are parties to Asset Purchase Agreements (“APAs”) whereby the Assignors will assign to the Assignee BRS Stations B464 (Channels BRS1, BRS2, E1-E4, F1-F4 and H1-H3), WLK327 (Channels F1-F4), WLK330 (Channels E1-E4) and WNTK288 (Channel H1). RCT and Clearwire are also parties to an Assignment and Assumption agreement (“AA” and with the APA the “Agreements”) whereby RCT will transfer to Clearwire its purchase options to EBS Stations WNC826 (Channels G1-G4), WNC960 (Channels B1-B4) and WNC959 (Channels D1-D4). The assignments include the entire BRS and EBS license areas covering parts of four Cellular Market Areas (“CMAs”): MN 5-Wilkin (CMA486), MN 8-Lac Qui Parle (CMA489), SD 4-Marshall (CMA637) and SD 8-Kingsbury (CMA641) and portions of five counties in Minnesota – Big Stone, Traverse, Lac Qui Parle, Lincoln and Yellow Medicine and eight counties in South Dakota – Clark, Codington, Day, Deuel, Grant, Hamlin, Roberts and Brookings.

### **Public Interest Statement**

Approval of the instant assignments are in the public interest because they will provide T-Mobile with access to additional geographical coverage, a more contiguous footprint and enhanced data capacity using 2.5 GHz EBS spectrum in the greater Watertown, South Dakota area as T-Mobile continues upgrading and enhancing its 4G and 5G broadband networks. As

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<sup>3</sup> See Press Release, T-Mobile Posts Record-High Customer Results, Adding 1.2 Million Postpaid Accounts and 5.5 Million Postpaid Customers in 2021, T-MOBILE (Jan. 6, 2022), <https://www.tmobile.com/news/business/t-mobile-preliminary-results-2021>; Christine Torralba, T-Mobile Shares Preliminary Results for 2021 Earnings, TMONEWS (Jan. 6, 2022), <https://www.tmonews.com/2022/01/tmobile-shares-preliminary-results-2021-earnings/>; Zack Equity Research, T-Mobile (TMUS) Witnesses Record Customer Additions in 2021, ENTREPRENEUR (Jan. 10, 2022), <https://www.entrepreneur.com/article/412304>.

<sup>4</sup> See *Applications of T-Mobile US, Inc. and Sprint Corporation for Consent to Transfer Control of License and Authorizations*, WT Docket No. 18-197, Memorandum Opinion and Order, Declaratory Ruling, and Order of Proposed Modification, FCC 19-103 (rel. Nov. 5, 2019) (“Merger Approval Order”).

<sup>5</sup> See FCC File No. 0010035772. Based on prior guidance from the Wireless Telecommunications Bureau, the Form 602 filing for T-Mobile satisfies the ownership reporting requirements of Sections 1.919 and 1.2112(a) of the Commission’s rules for its wholly-owned subsidiaries. See 47 C.F.R. §§ 1.919, 1.2112(a); see also *Wireless Telecommunications Bureau Answers Frequently Asked Questions Concerning Reporting of Ownership Information on FCC Form 602*, Public Notice, 14 FCC Rcd 8261, 8264-65 (WTB 1999) (“Form 602 FAQ’s”).

such, grant of these assignment applications will meet the Commission's goal of more efficient use of the spectrum and serve the public interest.

### **Spectrum Aggregation/Competition Analysis**

As indicated above, the assignments cover portions of four local markets in portions of five counties in Minnesota and eight counties in South Dakota and there is no need for any additional competitive review.

For Channels B1-B4 in two counties (Lincoln and Brookings), the instant assignment adds no additional attributable spectrum to T-Mobile, as T-Mobile is already attributed for the B1-B4 2.5 GHz spectrum in other portions of these same counties through other secondary-market leasing arrangements.<sup>6</sup> In seven counties (Big Stone, Lac Qui Parle, Yellow Medicine, Codington, Deuel, Grant and Hamlin), acquisition of the B1-B4 channels does increase T-Mobile's attributable spectrum holdings by 22.5 MHz. In three counties (Clark, Day and Roberts) the Station covers a *de minimis* amount of population and is not counted.

For Channels D1-D4 in two counties (Lincoln and Brookings), the instant assignment adds no additional attributable spectrum to T-Mobile, as T-Mobile is already attributed for the D1-D4 2.5 GHz spectrum in other portions of these same counties through other secondary-market leasing arrangements.<sup>7</sup> In seven counties (Big Stone, La Qui Parke, Yellow Medicine, Codington, Deuel, Grant and Hamlin), acquisition of the D1-D4 channels does increase T-Mobile's attributable spectrum holdings by 22.5 MHz. In three counties (Clark, Day and Roberts) the Station covers a *de minimis* amount of population and is not counted.

For Channels G1-G4 in two counties (Lincoln and Brookings), the instant assignment adds no additional attributable spectrum to T-Mobile, as T-Mobile is already attributed for the G1-G4 2.5 GHz spectrum in other portions of these same counties through other secondary-market leasing arrangements.<sup>8</sup> In nine counties (Big Stone, Lac Qui Parle, Yellow Medicine, Codington, Day, Deuel, Grant, Hamlin and Roberts), acquisition of the G1-G4 channels does increase T-Mobile's attributable spectrum holdings by 22.5 MHz. In one county (Clark) the Station covers a *de minimis* amount of population and is not counted.

For Channels E1-E4 and F1-F4 in one county (Brookings), the instant assignment adds no additional attributable spectrum to T-Mobile, as T-Mobile is already attributed for the E1-E4

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<sup>6</sup> Station WNC781 (West Central School District #49-7) covers portions of Lincoln County and Brookings County. This call sign is leased to a subsidiary of T-Mobile.

<sup>7</sup> Station WNC783 (Oldham-Ramona School District 39-5) covers portions of Lincoln County and Brookings County. This call sign is leased to a subsidiary of T-Mobile.

<sup>8</sup> Station WNC783 (Chester Area Schools 39-1) covers portions of Lincoln County and Brookings County. This call sign is leased to a subsidiary of T-Mobile.

and F1-F4 2.5 GHz spectrum in other portions of this county covered by an owned call sign.<sup>9</sup> In seven counties (Big Stone, Traverse, Lac Qui Parle, Codington, Deuel, Grant, and Hamlin), acquisition of the E1-E4 and F1-F4 channels does increase T-Mobile's attributable spectrum holdings by 45 MHz. In one county (Yellow Medicine) T-Mobile will be acquiring the E1-E4 and F1-F2 and F4 channels increasing T-Mobile's spectrum holdings 39.5 MHz. In four counties (Lincoln, Clark, Day and Roberts) the Stations cover a *de minimis* amount of population and is not counted.

For Channel H1 in three counties (Lincoln, Yellow Medicine and Brookings), the instant assignment adds no additional attributable spectrum to T-Mobile, as T-Mobile is already attributed for the H1 2.5 GHz spectrum in other portions of these counties covered by owned call signs.<sup>10</sup> In seven counties (Big Stone, Traverse, Lac Qui Parle, Codington, Deuel, Grant, and Hamlin), acquisition of the H1-H2 channels does increase T-Mobile's attributable spectrum holdings by 16.5 MHz. In one county (Clark) T-Mobile will be acquiring the H3 channel increasing T-Mobile's spectrum holdings 5.5 MHz. For Channels H1-H2 in three counties (Clark, Day and Roberts) and for the Channel H3 one county (Roberts) the Stations cover a *de minimis* amount of population and is not counted.

In nine counties (Big Stone, Traverse, Lac Qui Parle, Clark, Codington, Deuel, Grant, Hamlin and Roberts), acquisition of the BRS channels does increase T-Mobile's attributable spectrum holdings by 6 MHz.

In summary, T-Mobile's spectrum totals will remain unchanged in Lincoln County and Brookings County and will remain at 307.5 MHz and 316 MHz respectively. In the remaining eleven counties T-Mobile's spectrum will increase between 11.5 MHz and 135 MHz.<sup>11</sup> While this may appear to be a substantial increase in attributable spectrum, T-Mobile's spectrum holdings remain well below the FCC's spectrum screen, currently set at 385 MHz.<sup>12</sup> The Commission, however, has already thoroughly considered T-Mobile's spectrum aggregation holdings, even in those areas where T-Mobile exceeds the Commission's spectrum screen.<sup>13</sup>

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<sup>9</sup> T-Mobile Station B422 covers portions of Brookings County.

<sup>10</sup> T-Mobile Station WNEX781 covers portions of Brookings County and Lincoln County. T-Mobile Station WQYK878 covers a portion of Lincoln County and Yellow Medicine County.

<sup>11</sup> See Exhibit A.

<sup>12</sup> See Exhibit A.

<sup>13</sup> With the completion of the C-Band 3.7 GHz Auction and the 3.45 GHz Auction, 380 MHz of additional mid-band spectrum has now also been added to the Commission's wireless spectrum screen. With a total amount of 1124 MHz subject to the screen, 385 MHz is the screen threshold for local market analysis. T-Mobile's spectrum holdings are catalogued in Exhibit A.

Access to the additional 2.5 GHz spectrum in the eleven counties and additional coverage and capacity in the remaining counties will promote the important objective of T-Mobile's expeditious deployment of its 5G network. As part of the Sprint Merger, T-Mobile has committed to build out a nationwide 5G network serving 97 percent of the U.S. population in three years and 99 percent in six years.<sup>14</sup> In rural areas, T-Mobile must have 5G coverage for 85 percent of the population in three years and then 90 percent in six years.<sup>15</sup> The Commission stressed the general benefits of 5G deployment: "Building leading 5G networks is of critical importance for our nation. . . . [T]he deployment of 5G networks 'holds the potential to bring enormous benefits to American consumers by delivering faster speeds and lower latency and by supporting the development of advanced applications like the Internet of Things, smart cities, and telehealth.'"<sup>16</sup> The Commission also recognized that "'America's appetite for wireless broadband service is surging' and '[e]nabling next generation wireless networks and closing the digital divide will require efficient utilization of the low-, mid-, and high-bands.'"<sup>17</sup>

In approving the Sprint Merger, the Commission specifically found that:

"[c]ompared to the capabilities of the standalone companies as reflected in their internal plans, the transaction will significantly increase the quality and geographic reach of their wireless networks for the foreseeable future. . . . In an economy increasingly dependent upon access to broadband services for innovation in a wide variety of sectors and services, these network deployment synergies will yield significant public interest benefits. . . . The network benefits of the transaction are particularly important for the nation's underserved rural areas. . . . By bringing new connectivity and competition to underserved rural areas, the transaction will help to ensure that 5G will close the digital divide."<sup>18</sup>

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<sup>14</sup> See Merger Approval Order, ¶ 26.

<sup>15</sup> *Id.* ¶ 27.

<sup>16</sup> *Id.* ¶ 3, citing *Updating the Commission's Rule for Over-the-Air Reception Devices*, Notice of Proposed Rulemaking, 34 FCC Rcd 2695, ¶ 1 (2019).

<sup>17</sup> *Id.* ¶ 97, citing *Expanding Flexible Use of the 3.7 to 4.2 GHz Band; Expanding Flexible Use in Mid-Band Spectrum Between 3.7 and 24 GHz; Petition for Rulemaking to Amend and Modernize Parts 25 and 101 of the Commission's Rules to Authorize and Facilitate the Deployment of Licensed Point-to-Multipoint Fixed Wireless Broadband Service in the 3.7-4.2 GHz Band; Fixed Wireless Communications Coalition, Inc., Request for Modified Coordination Procedures in Band Shared Between the Fixed Service and the Fixed Satellite Service*, GN Docket No. 18-122, GN Docket No. 17-183 (Terminated), RM 11791, RM-11778, Order and Notice of Proposed Rulemaking, 33 FCC Rcd 6915, 6917, ¶¶ 3-4 (2018) ("3.7-4.2 Order and NPRM").

<sup>18</sup> *Id.* ¶¶ 5-7.

Although the Sprint Merger resulted in T-Mobile being attributed spectrum in excess of the screen in a number of CMAs, the Commission noted that “the combination of spectrum and other resources brought together as a result of the proposed transaction would give T-Mobile the capability to deploy a highly robust nationwide 5G network” and added that “the benefits depend to a significant extent on the extensive deployment of 2.5 GHz spectrum” and that the “transaction will therefore significantly increase the overall utilization of the 2.5 GHz spectrum.”<sup>19</sup> The Commission has stated that “[m]id-band spectrum [*i.e.*, 1 GHz to 6 GHz<sup>20</sup>] is well-suited for next generation wireless broadband services due to the combination of favorable propagation characteristics (compared to high bands) and the opportunity for additional channel re-use (as compared to low bands).”<sup>21</sup> It has also recognized “the complementarity of low-band and mid-band spectrum particularly for data services. By adding 2.5 GHz mid-band spectrum to a cell site, that spectrum can be used to serve the demand close to the cell site, leaving more capacity on the low-band 600 MHz spectrum free for use by those further from the cell site.”<sup>22</sup>

All of the foregoing analysis is particularly relevant here, as T-Mobile seeks to gain between 11.5 MHz and 135 MHz of 2.5 GHz spectrum to enhance its 2.5 GHz operations in the EBS portion of the 2.5 GHz band, including multiple counties that are defined as rural.<sup>23</sup> In this case all counties will be part of the rural buildout that T-Mobile has committed to. In each of the Station’s counties, access to this additional 2.5 GHz spectrum will help fill in spectrum usability holes at 2.5 GHz, enable a more contiguous 2.5 GHz footprint, and provide additional data capacity for customers.

The only spectrum under these Assignments is above 1 GHz, so the screen for below-1-GHz spectrum is not implicated.<sup>24</sup> In addition, there are numerous other carriers serving the markets in which T-Mobile is acquiring the spectrum (*see Exhibit B* hereto), which ensures that a high degree of competition continues to exist. Further, in none of the thirteen counties will any

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<sup>19</sup> *Id.* ¶¶ 97-98.

<sup>20</sup> *Id.* ¶ 28.

<sup>21</sup> *Id.* ¶ 237, citing 3.7-4.2 Order and NPRM, 33 FCC Rcd at 6917-18, ¶ 5.

<sup>22</sup> *Id.* ¶ 238. The Commission also described the benefits of the combination of low-band and mid-band spectrum to deliver improved, broader services in rural areas, *Id.*, and recognized “that New T-Mobile’s network will have sufficient excess capacity to offer a new in-home broadband service to millions of homes, including underserved homes in rural areas . . . ,” *Id.* ¶ 282.

<sup>23</sup> All counties in this Assignment are defined as wholly rural. *See* List of Rural Counties And Designated Eligible Census Tracts in Metropolitan, Office of Rural Health Policy, <https://www.hrsa.gov/sites/default/files/hrsa/ruralhealth/resources/forhpeeligibleareas.pdf> (last visited on May13, 2022).

<sup>24</sup> T-Mobile’s attributable holdings of below-1 GHz spectrum both pre- and post-transaction remain unchanged between 54 MHz and 66 MHz in the thirteen counties affected.

nationwide carrier be removed from the market.<sup>25</sup> For all of these reasons, T-Mobile believes that the instant transaction does not trigger the need for additional competitive review.

### **T-Mobile US Foreign Ownership Disclosure**

As noted above, Assignee is a wholly-owned indirect subsidiary of T-Mobile USA. T-Mobile USA in turn is a wholly owned direct subsidiary of T-Mobile US, a U.S.-organized entity. DT, a publicly-traded German corporation, holds approximately a 48.3 percent interest in T-Mobile US and, indirectly in T-Mobile USA through the intermediate companies described above. DT has de facto control of T-Mobile US – and thus Assignee – as a result of a proxy agreement which authorizes DT to vote a majority of the stock of T-Mobile US.

By order released November 5, 2019, the Commission granted, subject to certain conditions, T-Mobile US's Petition for Declaratory Ruling under Section 310(b)(4) of the Communications Act on behalf of its current and future licensee and lessee subsidiaries that it would not serve the public interest to prohibit indirect foreign ownership by DT and its subsidiaries of T-Mobile US and its subsidiaries of up to 100 percent and authority for up to 49.99 percent ownership by certain other foreign minority interest holders.<sup>26</sup> T-Mobile US's petition was filed in connection with the Sprint Merger. That ruling specifically permitted the direct and/or indirect foreign equity and voting interests which the Commission found would be held in T-Mobile US upon closing of the Sprint Merger and also specifically permitted: (i) the foreign entities with a controlling interest in T-Mobile US (*i.e.*, DT Holding B.V., T-Mobile Holding, T-Mobile Global and DT) to increase the aggregate level of their controlling ownership interests in the reorganized T-Mobile US, at some future time, up to any amount, including 100 percent of T-Mobile US's equity and voting interests; and (ii) the foreign entities with a non-controlling interest in T-Mobile US (*i.e.*, SoftBank Group, SoftBank and Mr. Masayoshi Son, a Japanese citizen and the founder and CEO of SoftBank who holds 21 percent of its equity and voting interests) to increase their aggregate interest in T-Mobile US, at some future time, up to and including a non-controlling indirect 49.99 percent equity and voting interest.<sup>27</sup> That declaratory ruling, in accordance with Section 1.5001(c)(1) of the rules, specifically listed as covered by such ruling Lessee (among other licensee subsidiaries of T-Mobile USA) and the type of wireless service license that is the subject of the instant transaction. The foreign ownership in the licensees as approved has not materially changed since November 5, 2019 and will not be affected by the instant transaction.

### **Conclusion**

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<sup>25</sup> See Exhibit B.

<sup>26</sup> See IBFS File No. ISP-PDR-20180618-00002 (filed June 18, 2018); granted by Merger Approval Order, ¶¶ 361-63.

<sup>27</sup> *Id.*

T-Mobile respectfully submits that the proposed transaction will advance the public interest by enhancing T-Mobile's ability to expand its array of commercial wireless mobile services in the greater Watertown, South Dakota area. Therefore, for the reasons set forth above, T-Mobile respectfully submits that Commission approval of the requested assignment will serve the public interest.