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Commissioner Clifford Rechtschaffen
Administrative Law Judge Karl J. Bemederfer
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Re: A.18-07-011 T-Mobile/ Sprint Merger: New York AG Decision

Dear Commissioner Rechtschaffen and ALJ Bemederfer:

In light of the decision issued earlier this week by U.S. District Judge Victor Marrero in the litigation brought by a group of state Attorneys General, including California Attorney General Xavier Becerra, to block the T-Mobile/Sprint merger in the U.S. District Court for the Southern District of New York, DISH Network Corporation (“DISH”) respectfully urges the Commission to take all appropriate steps to ensure issuance of a proposed decision with respect to Joint Applicants’ applications in the above-captioned matter as promptly as possible, and no later than February 25, 2020, so that the Commission can conclude its review of this transaction at its March 26, 2020 meeting.

As DISH previously explained to the Commission, the Proposed Final Judgement imposed by the United States Department of Justice, agreements between the parties, and commitments to the Federal Communications Commission, will facilitate and accelerate DISH’s entry into the retail mobile wireless telecommunications services (“RMWTS”) market as a fourth nationwide facilities-based mobile network operator thus addressing DISH’s previously expressed concerns regarding the potential competitive impact of the above-captioned merger. Judge Marrero affirmed this in a thorough 170-page ruling that concluded, among other things:

DISH now has all of the incentives and necessary resources to compete in the RMWTS Markets. And it has received favorable remedies that strengthen its ability to do so, and is subject to severe potential penalties, at a time when the industry is transitioning to a new technological standard. Accordingly, the Court is persuaded that DISH will likely take advantage of its opportunity to enter the RMWTS Markets, first building out its 5G network in dense cities and leveraging Boost’s positive brand image to cater to price-conscious customers, and shortly thereafter expanding nationwide to challenge the dominance of the incumbent MNOs more broadly.¹

¹ *State of New York v. Deutsche Telekom AG*, No. 1:19-cv-05434-VM-RWL, pp. 122-123 (S.D.N.Y. filed June 11, 2019), a copy of which is attached for your reference.

Looking beyond the short term, DISH's entry would likely be timely enough to replace the competitive impact of Sprint in the long term. It is clear that the commercial significance of DISH is trending upwards while Sprint is trending downwards. Unlike Sprint, DISH is acquiring spectrum at auction, hiring employees, and significantly investing in its network.²

[T]he FCC and DOJ remedies, and particularly those designed to ensure that DISH becomes an aggressive fourth national MNO, significantly reduce the concerns and persuasive force of Plaintiff States' market share statistics.³

The benefits to competition and consumers, including those in California, resulting from the transactions described above are well documented in the Commission's record, as I discussed extensively during my testimony at the December 2019 hearings.

DISH's ability to promptly enter the RMWTS market and bring these benefits to consumers, however, is contingent on the divestiture of the Sprint prepaid assets which can occur only after the T-Mobile/Sprint merger is consummated. The longer it takes for DISH to acquire the divested assets, the longer it will take for DISH to become a competitive force in the RMWTS market. DISH therefore respectfully requests the Commission issue its decision without delay, and consistent with the timetable described herein.

/s/ Jeffrey H. Blum
Jeffrey H. Blum

CC: President Batjer
Commissioner Guzman Aceves
Commissioner Shiroma
Commissioner Randolph
Service List for A.18-07-011/A.18-07-012

² *Id.* at p. 126.

³ *Id.* at pp. 126-127.