

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

In the Matter of the Joint Application of Sprint Communications Company L.P. (U-5112) and T-Mobile USA, Inc., a Delaware Corporation, For Approval of Transfer of Control of Sprint Communications Company L.P. Pursuant to California Public Utilities Code Section 854(a).

Application 18-07-011

In the Matter of the Joint Application of Sprint Spectrum L.P. (U-3062-C), and Virgin Mobile USA, L.P. (U-4327-C) and T-Mobile USA, Inc., a Delaware Corporation for Review of Wireless Transfer Notification per Commission Decision 95-10-032

Application 18-07-012

**T-MOBILE USA'S RESPONSE TO THE CALIFORNIA PUBLIC ADVOCATES  
OFFICE'S MOTION TO COMPEL RESPONSES TO DATA REQUESTS**

Dave Conn  
Susan Lipper  
T-Mobile USA, Inc.  
12920 SE 38th St.  
Bellevue, WA 98006  
Telephone: 425.378.4000  
Facsimile: 425.378.4040  
Email: dave.conn@t-mobile.com  
Email: susan.lipper@t-mobile.com

Suzanne Toller  
Davis Wright Tremaine LLP  
505 Montgomery Street, Suite 800  
San Francisco, CA 9411  
Telephone: 415.276.6500  
Email: suzannetoller@dwt.com

Leon M. Bloomfield  
Law Offices of Leon M. Bloomfield  
1901 Harrison St., Suite 1400  
Oakland, CA 94612  
Telephone: 510.625.1164  
Email: lmb@wblaw.net

Attorneys for T-Mobile USA, Inc.

March 14, 2019

## **T-MOBILE USA’S RESPONSE TO CALIFORNIA PUBLIC ADVOCATES OFFICE’S MOTION TO COMPEL TO COMPEL RESPONSES TO DATA REQUESTS**

Pursuant to Commission Rule of Practice and Procedure 11.3, T-Mobile USA, Inc. (“T-Mobile USA”) submits its response to the Public Advocates Office’s (“Cal PA”) Motion to Compel further Data Responses filed on March 7, 2019 (the “Motion to Compel”).<sup>1</sup> In essence, Cal PA attempts to transform its prior request for *additional time to digest* allegedly “new information” contained in the Joint Applicants’ Rebuttal Testimony — and to submit additional testimony in response to that information — into a quest for even more information beyond that which was already timely provided by T-Mobile over the course of this proceeding.

For the reasons discussed below, T-Mobile respectfully requests that the Motion to Compel be denied and that the parties be allowed time to focus their efforts on the preparation of post-hearing briefs including, for Cal PA, the possible submission of sur-rebuttal testimony based on the information already contained in the Joint Applicants’ Rebuttal Testimony.

### **I. BACKGROUND**

On the eve of the hearings in this matter, Cal PA filed a Motion to Amend and Supplement Testimony and for Additional Hearings (“Motion to Supplement”) on the basis that it did not have adequate time to analyze what it characterized as “4,000 pages of new information and testimony in their [Joint Applicants’] rebuttal testimony.” Accordingly, it sought permission to file “amended and supplemental testimony” and to conduct additional

---

<sup>1</sup> The Motion to Compel seeks further responses to the 39 data requests contained in Cal PA’s Data Request Sets 010 and 011 which were propounded on February 14 and February 19, 2019 respectively; i.e., *after the hearings had concluded and while the Motion to Supplement was pending*. T-Mobile responded to those data requests on February 22nd and February 26<sup>th</sup> respectively. Copies of those responses were attached to the Motion to Compel at Attachment A. See Declaration of Leon M. Bloomfield (“Bloomfield Decl.”), attached as Exhibit A, at ¶¶ 2-3.

hearings at a later date.<sup>2</sup> Cal PA also requested that the Commission require the Joint Applicants to respond to all further data requests within 5 business days and to establish a process to promptly address all discovery disputes.<sup>3</sup> It made these requests despite the undisputed fact that essentially all of the “new” information was provided during the many months of discovery. Indeed, all but 36 pages of rebuttal testimony exhibits was produced to Cal PA well in advance of the hearing.<sup>4</sup>

The motion was granted in part and denied in part by the ALJ on February 26, 2019 (the “ALJ Ruling”). In particular, the ALJ Ruling did not conclude that the Joint Applicants’ rebuttal testimony contained new evidence or arguments, but rather fashioned a focused remedy to deal with what was characterized as the volume and complexity of the information provided over the course of discovery.<sup>5</sup> The ALJ’s Ruling (a) provides all parties with an additional four weeks to submit their opening post-hearing briefs and (b) allows Cal PA to include “additional evidence and arguments responsive to the rebuttal testimony of Joint Applicants may be included in its opening brief.”<sup>6</sup> Importantly, nowhere in this Ruling was there permission to conduct further, wide-ranging discovery.

---

<sup>2</sup> Cal PA Motion to Supplement at p. 5-6 (February 4, 2019).

<sup>3</sup> Id. at p. 5. In its Reply to the Joint Applicants’ Response to the Motion to Supplement, Cal PA alternatively sought a three-week extension to submit its Opening Post-Hearing Brief to the extent the Commission was not inclined to grant the relief sought in its original motion. See Cal PA Reply at p. 3 (February 21, 2019).

<sup>4</sup> See Joint Applicants’ Response at p. 4; see also Joint Applicants’ Sur-Reply at pp. 3-4 (noting that *all but 36 of the approximately 3,600 pages* of exhibits to the rebuttal testimony were produced to Cal PA in discovery well in advance of the hearings).

<sup>5</sup> ALJ Ruling at p. 3 (“...regardless of whether the Joint Applicant’s rebuttal testimony contains new evidence and arguments, the sheer volume of the material together with the complexity of the subject matter has worked a disadvantage to Cal Advocates that requires a remedy.”)

<sup>6</sup> Id. at pp. 3-4.

## II. CAL PA'S ABILITY TO SUBMIT ADDITIONAL TESTIMONY POST HEARING DOES NOT JUSTIFY THE MOTION TO COMPEL.

Neither the Ruling nor Commission precedent, however, suggests that further discovery is appropriate or warranted in these circumstances. As an initial matter, there does not appear to be any legal basis that provides for post-hearing discovery. Cal PA inappropriately relies on Pub. Util. Code section 309.5 as a basis for its Motion to Compel but that statute is not specific to discovery in formal proceedings, and even to the extent it is arguably applicable in this proceeding it does not provide Cal PA "broad discretion" to compel discovery "at any time" as Cal PA asserts.

Moreover, the Commission does not permit discovery "at any time." In fact, it is common practice for the Commission to set a discovery cut-off prior to an evidentiary hearing.<sup>7</sup> Even when the Commission does not expressly set a discovery cut-off – as is the case here – the Commission has denied requests for further discovery following evidentiary hearings, both out of concerns for delay and due process.<sup>8</sup> This is rooted in the general principle expressed by the

---

<sup>7</sup> See, e.g., *Office Ratepayer Advocates*, A.00-11-018, Scoping Memo and Ruling of the Assigned Commissioner at 2 ("I acknowledge that under Public Utilities Code Section 309.5(e), ORA does have ongoing authority to compel the production or disclosure of any information it deems necessary to perform its duties from entities regulated by the Commission. However, for purposes of presenting a case in this proceeding, we need a date certain for parties to submit data requests and to receive responses. For that reason, I have adopted due dates for discovery requests and responses [prior to reply testimony and over month before evidentiary hearing]."); *Utility Consumers' Action Network*, Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge, C.05-11-012 (January 20, 2006) (setting deadline to propound discovery approximately 10 weeks before evidentiary hearing and deadline for motion to compel discovery approximately 6 weeks before evidentiary hearing); *Extreme Telecom*, Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge, C.05-04-013 (August 3, 2005) (setting discovery cut-off for over three weeks prior to hearing).

<sup>8</sup> See, e.g., *In re SBC Commcn's*, Administrative Law Judge's Ruling Regarding Motion to Compel for Depositions by Qwest Communications Corporation (August 4, 2005) ("...it would not be appropriate to schedule the deposition to occur after the close of evidentiary hearings.").

Commission that “[d]iscovery concerns should be addressed early in a proceeding...”<sup>9</sup>

The Joint Applicants are not aware of any situation where the Commission has allowed discovery to continue after a hearing. To do so not only raises serious due process issues, but also creates great uncertainty for all parties. T-Mobile understands that Rule 13.10 allows for the submission of additional evidence post-hearing and, per the ALJ Ruling, Cal PA now has the right to submit additional testimony in the instant proceedings. To impose ongoing discovery obligations is a separate matter.

In addition, the ALJ Ruling did not grant or even address Cal PA’s request to “require the Joint Applicants to respond to all further data requests within 5 business days and to establish a process to promptly address all discovery disputes.” Indeed, Cal PA did not reference that request in its Reply to the Joint Applicants’ Response to the Motion to Supplement.<sup>10</sup> The ALJ Ruling was clear that it was intended to provide Cal PA with additional time to further review and digest the materials attached to the Rebuttal Testimony and, to the extent it desires to do so, to submit sur-rebuttal testimony regarding *that* information with its opening brief on March 29, 2019.

Even with that understanding, however, T-Mobile’s counsel invited Cal PA during its meet and confer telephone discussions to identify any specific data requests in Cal PA DRs 010

---

<sup>9</sup> *In Re Accutel Commc'ns*, D.02-07-034 (“Discovery concerns should be addressed early in a proceeding with motions to compel production of documents.”).

The limitation on the scope and timeframe of discovery is reflective of the discovery rules set forth in the Code of Civil Procedure, which the Commission follows for guidance on discovery matters. *See, e.g., Joint Application of Pac. Enterprises*, 79 CPUC 2d 343 (Mar. 26, 1998) (“...the Commission generally follows the discovery rules that are found in the Code of Civil Procedure (CCP).”) For example, Civ. Proc. Code section 2024.020 prohibits discovery less than 30 days prior to trial, and prohibits discovery motions less than 15 days prior to trial. Cal PA’s attempt to compel further responses to discovery propounded *after the hearings* far exceeds the timeframes set forth in the Civil Code.

<sup>10</sup> Cal PA’s request of discovery in its Motion to Supplement seems to be a tacit admission that absent that request, post-hearing discovery is not allowed under Commission practice.

and 011 (the “Subject Data Requests”) that could be tied to truly *new* facts in the rebuttal testimony (i.e., facts or assertions that had not previously provided to them in discovery or otherwise in the proceeding) and which were otherwise material to disputed issues in the proceeding. T-Mobile was open to considering such a request even if it had no obligation to do so.<sup>11</sup> Instead, Cal PA took the position that each and every data request it propounded post-hearing was appropriate so long as it related in any way to evidence or statements contained in the Joint Applicants’ Rebuttal Testimony regardless of whether the information had previously been provided or whether there was anything even arguably new in that testimony (or that Cal PA could have requested many months ago).<sup>12</sup>

### **III. NO FURTHER RESPONSES TO CAL PA DATA REQUESTS ARE WARRANTED**

T-Mobile’s objections to the Subject Data Requests, which were included in its responses, still stand.<sup>13</sup> Even if further discovery was allowed, which it should not for the reasons discussed above, the Motion to Compel should be denied because the Subject Data Requests seek information that has already been provided to Cal PA, does not exist, is wholly unrelated to any Rebuttal Testimony, relates to data and facts that have been provided to Cal PA during the course of discovery and prior to the hearing, or otherwise attempts to retract its decision to waive cross for certain witnesses.

---

<sup>11</sup> Bloomfield Decl. at ¶¶ 4- 6, attached as Exhibit A.

<sup>12</sup> Id. at ¶¶ 7-8.

<sup>13</sup> T-Mobile stands by all of the objections with the exception of “all testimony has been submitted and admitted” as the ALJ Ruling clearly allows for additional testimony.

**A. Cal PA’s Pre-Hearing Discovery was Exhaustive**

The Joint Applicants note that Cal PA’s discovery in this case has been exhaustive by any standard. *Prior to the hearings*, Cal PA propounded over 260 Data Requests (including almost 650 subparts) to T-Mobile.<sup>14</sup> In response, T-Mobile timely provided Cal PA with hundreds of pages of narrative responses, tens of thousands of pages of documents and hundreds of gigabytes of network and economic modeling data.<sup>15</sup> In addition, T-Mobile executives and network engineers met on two separate occasions with Cal PA to further explain the merger. Discovery from Cal PA continued all the way up to the time of the hearings with the last pre-hearing requests propounded on January 31, 2019 and responses provided by T-Mobile on February 4, 2019.<sup>16</sup>

**B. Cal PA Seeks to Compel Information which has Already Been Provided**

Many of the Subject Data Requests seek information T-Mobile had previously provided to Cal PA. It appears that Cal PA either did not read those prior responses or is attempting to compel T-Mobile to analyze the data on Cal PA’s behalf. Neither rationale is appropriate to support its Motion to Compel. For example:

- Cal PA DR 10-19 asks T-Mobile to determine the proximity (e.g., by collocation, within 500 ft. and within a half-mile) of the Sprint sites to be decommissioned and T-Mobile sites in California. In prior responses to data requests, however, T-Mobile already provided Cal PA with the latitude and longitude coordinates of T-Mobile’s current California sites. T-Mobile also identified, based on a preliminary analysis, which of the California Sprint sites New T-Mobile expects to retain and/or decommission along with the latitude and longitude coordinates

---

<sup>14</sup> Id. at ¶ 9. Cal PA has also issued over almost 240 Data Requests to Sprint, comprising approximately 660 separate requests for information. Id. at n. 1.

<sup>15</sup> Id. at ¶ 10.

<sup>16</sup> Id. at ¶ 11.

for those sites.<sup>17</sup> Thus, this information has been available to Cal PA since October 2018 and it was — and still is — able to do that analysis if it desires. T-Mobile, however, is not obligated to do that work on behalf of Cal PA under any circumstances.<sup>18</sup>

- Cal PA DR 10-25 asks T-Mobile to define the terms “rural” and “urban” yet T-Mobile has already clarified that it uses the FCC’s definition of “rural”.<sup>19</sup>
- Cal PA DR 10-28 asks T-Mobile when it began to use the network model for 4G. T-Mobile provided that information on October 10, 2018 in Response to various data requests when it provided Mr. Ray’s Declaration in Support of the Reply to the Joint Opposition filed at the FCC.<sup>20</sup> That declaration explicitly provided: “This model [the model being used to develop the 5G network] is built upon the ordinary course engineering tool that T-Mobile has used since 2011/2012 and has been utilized to dictate capacity expansion and expenditures.”<sup>21</sup> The Ray Declaration had also been available to Cal PA since it was first filed with the FCC on September 17, 2018 and was included again as Exhibit B to Hearing Ex. Jt Appl.-3C. That information (i.e., the reference to the time frame) was not marked as confidential in any of those filings.<sup>22</sup>
- Cal PA DR 10-29 asks T-Mobile when it began to use the network model for the 5G network. The Ray Declaration identified above, however, also provides that T-Mobile developed the model for 5G using the ordinary course engineering tool sometime in 2018.<sup>23</sup>
- Cal PA 10-31 asks “how long would a Sprint customer need to wait to receive a discounted or free device.” The migration plan was explained on numerous occasions including with the filing of the public version of the PIS on June 18, 2018; in the Wireless Notification filed with this Commission on July 13, 2018; in the Reply to the Joint Opposition filed with the FCC on September 17, 2018; and again in response to various data request prior to the hearing.<sup>24</sup> In addition, Mr.

---

<sup>17</sup> Id. at ¶ 12.

<sup>18</sup> See Cal. Civ. Proc. Code § 2030.230.

<sup>19</sup> Id. at ¶ 13.

<sup>20</sup> Id. at ¶ 14.

<sup>21</sup> Id.; see also Hearing Ex. Jt Appl.-3C (Ray Rebuttal Testimony), Attachment B, ¶ 2.

<sup>22</sup> Bloomfield Decl. at ¶ 14.

<sup>23</sup> Id. at ¶ 15.

<sup>24</sup> Id. at ¶ 16.



Ray was clear on cross that full migration was expected to be completed and for those who do not migrate in the normal course, free handsets are an option that can be used at the end of the migration period.<sup>25</sup>

### **C. Cal PA Seeks to Compel Information That Does Not Exist**

T-Mobile had previously informed Cal PA that certain information does not exist or is otherwise not in its possession, custody or control and reiterated that in its responses to the Subject Data Requests. Cal PA, however, insists on compelling responses without acknowledging T-Mobile's response. For example:

- Cal PA DRs 11-1, 11-2, 11-5 and 11-6 seek projected capital expenditures by county for both standalone T-Mobile and New T-Mobile. No such analysis exists as T-Mobile first explained to Cal PA in October 2018 in response to Cal PA 1-30 and 1-33.<sup>26</sup> T-Mobile ultimately undertook the task of creating a directional estimate of statewide network expenditures for both standalone and New T-Mobile and provided that information in supplemental responses to Cal PA DR 1-30 and 1-33 (as well as in Mr. Sievert's Rebuttal Testimony.<sup>27</sup> Nevertheless, Cal PA insists on pursuing the matter.
- Cal PA DR 11-3 and 11-4 seek projected county-specific capital expenditures for Sprint standalone. Again, T-Mobile informed Cal PA that, among other things, such information – to the extent it existed – would be in Sprint's possession and not T-Mobile's.

---

<sup>25</sup> See Hearing Tr. at 488:4-17 (Ray Cross) (Q: “So, Mr. Ray, to reiterate. It's your intention that T-Mobile would follow the game plan that you successfully followed with MetroPCS as to the proposed Sprint transaction? You would migrate them over time as capacity allowed. And if there were holdouts with incompatible handsets, you would consider providing free handsets to Sprint customers who have held out and don't have a compatible phone? Is that my understanding of your answer? A: “Correct.”)

<sup>26</sup> Bloomfield Decl. at ¶ 17.

<sup>27</sup> Id. at ¶ 18. Cal PA continues to assert that it did not receive the county-specific maps prior to the submission of Mr. Ray's Rebuttal Testimony. See Motion to Compel at p. 10 (“Although some of the county maps had been provided previously...”). The assertions are inconsistent with the record. The full set of county maps was produced to Cal PA in a Supplemental Response to it more than two weeks before Cal PA's testimony was due and almost 8 weeks before the hearings. Indeed, the copies of the maps attached to Mr. Ray's Rebuttal Testimony were the Bates-stamped copies from that production. See Bloomfield Decl. at ¶¶ 20-21.

**D. Cal PA Seeks to Compel Information Wholly Unrelated to Rebuttal Testimony**

Although the Joint Applicants' Rebuttal Testimony does not refer to or otherwise rely on any information provided to the United States Department of Justice ("DOJ") that had not already been produced to Cal PA,<sup>28</sup> Cal PA now seeks to compel T-Mobile to produce all filings and "communications" with the DOJ since January 2019 in Cal PA DR 10-20. In other words, Cal PA appears to try and further expand this proceeding by now requesting information that was not in any way relied on or cited in the Rebuttal Testimony. Even under the most expansive view of the ALJ Ruling, that does not seem justifiable.

**E. Cal PA Seeks to Compel Further Responses on Data Provided from the Outset**

Among the hundreds of data requests propounded prior to the hearings, T-Mobile provided numerous responses to data requests regarding some of the key merger benefits including the benefits of in-home broadband and the New T-Mobile 5G network. In addition, those topics were discussed in detail in the Wireless Notification, the PIS and the Joint Applicants' Opposition; all of which were made available to Cal PA between last June and October. Nonetheless, Cal PA now seeks further information on certain previously provided data points<sup>29</sup> relating to key benefits that could have been handled during discovery at any time prior to the hearings and which it could have asked on cross. The fact that these data points were reiterated in the Rebuttal Testimony does not make it "new" nor should it subject T-Mobile to further data requests.

---

<sup>28</sup> Bloomfield Decl. at ¶ 19.

<sup>29</sup> See e.g., Cal PA DR 10-27 (handset penetration); DR 10-26 (average data usage); DR 10-22 (anticipated in-home data usage); DR 10-23 (anticipated in-home broadband California customers); and DRs 10-21 and 10-32 (consumer savings).

The specific information for all of these inquiries, however, was provided to Cal PA from very early stages either in the Wireless Notification or in responses to some of the first data requests propounded by Cal PA.<sup>30</sup> It is not credible for Cal PA to assert that it was unaware of this data or that it could not have sought further information prior to the hearings.

**F. Cal PA Seeks to Compel Further Responses on Issues where Cross was Waived**

Prior to the hearing, and after the submittal of Rebuttal Testimony, Cal PA (as well as the other intervenors) agreed to waive cross of Ms. Susan Brye, T-Mobile's privacy witness who submitted rebuttal testimony in response to Cal PA's testimony regarding T-Mobile's third-party risk management policies and practices (referred to as the Third-Party Risk Management Program or "TPRM"). Ms. Brye's testimony addressed each of Cal PA's concerns in its testimony regarding (a) whether T-Mobile reviews third-party risk prior to entering into a relationship with third-party providers, (b) whether T-Mobile conducts follow-up evaluations, (c) creating a list of third party suppliers with access to confidential data, (d) confirmation that third-party risk is a company priority and (e) timing of third-party's requirements to notify T-Mobile in case of a breach.<sup>31</sup> In turn, the Joint Applicants also waived cross of Cal PA's privacy witness Ms. Kristina Donnelly.

Cal PA, after waiving cross and after the hearings, submitted 18 additional data requests identified as Cal PA DRs 10-1 to 10-18 that appears to be an attempt to conduct an untimely post-hearing cross and otherwise compel the production of at best ancillary information (e.g., the date T-Mobile's outside consultant completed the development of the TPRM framework) which

---

<sup>30</sup> See e.g., Bloomfield Decl. at ¶¶ 22 - 25.

<sup>31</sup> Compare Hearing Ex. Pub. Adv.007C (Donnelly Testimony) at 8:20–17:2 and Hearing Ex. Jt. Appl.-10C (Brye Rebuttal Testimony) at 3:2–9:9.



# EXHIBIT A

## Exhibit A

### **Declaration of Leon M. Bloomfield in Support of T-Mobile USA's Response to Cal PA's Motion to Compel Further Responses to Date Requests**

1. I am one of the outside counsel for T-Mobile USA ("T-Mobile") in A.18-07-011 and A.18-07-012.
2. On February 14, 2019, T-Mobile received a copy of Cal PA's Data Request Set 010 which contained 32 data requests (not including subparts). T-Mobile provided Cal PA with responses to those request on February 22, 2019.
3. On February 19, 2019, T-Mobile received a copy of Cal PA's Data Request Set 011 which contained 7 data requests (not including subparts). T-Mobile provided Cal PA with responses to those request on February 26, 2019.
4. On March 5 and March 6, 2019, Suzanne Toller and I had telephonic meet and confer discussions with various representatives of Cal PA including but not limited to Travis Foss, Shelly Lyser, Cameron Reed and Kristina Donnelly.
5. In the course of those conversations, Ms. Toller and I explained to Cal PA that we did not believe either as a matter of law or Commission practice that post-hearing discovery was appropriate or authorized in these proceeding but inquired as to whether there were any data requests in either Cal PA DR 010 or 011 which stemmed from new facts or assertions in the rebuttal testimony (i.e. facts or assertions that had not previously provided to them in discovery or otherwise in the proceeding (e.g. in the application, meetings, etc.) and which were otherwise material to disputed issues in the proceeding.
6. Ms. Toller and I further explained that we would bring any such information back to our client for consideration despite our understanding that no post-hearing discovery was appropriate.
7. Cal PA informed us that it believed that all the data requests in DR 010 and 011 were appropriate as was any further discovery so long as it related in any way to evidence or statements contained in the Joint Applicants' Rebuttal Testimony – regardless of whether the information had previously been provided or whether there was anything even arguably new in that testimony.
8. Cal PA did not provide any further information regarding the need for the information contained in the post-hearing data requests.

9. Prior to the hearings in these proceedings, Cal PA propounded over 260 Data Requests (including approximately 650 subparts) to T-Mobile contained in Cal PA DR Sets 001 - 009.<sup>1</sup>
10. In response, T-Mobile provided Cal PA with responses and supplemental responses which included hundreds of pages of narrative responses, almost 40,000 pages of documents (not including the multiple pages of Excel documents) and hundreds of gigabytes of network and economic modeling data. Discovery from Cal PA continued all the way up to the time of the hearings with the last pre-hearing requests propounded on January 31, 2019 and responses provided by T-Mobile on February 4, 2019.
11. In addition, T-Mobile executives and network engineers met on two separate occasions with Cal PA, once on October 18, 2018 and once on December 4, 2018, to further explain the merger. Discovery from Cal PA continued all the way up to the time of the hearings with the last pre-hearing requests propounded on January 31, 2019 and responses provided by T-Mobile on February 4, 2019.
12. On October 10, 2018, in response to Cal PA DR 1-48, T-Mobile provided Cal PA with Excel spreadsheets that included the latitude and longitude coordinates of T-Mobile's current California sites. On November 7, 2018, in response to Cal PA DR 2-6, T-Mobile also identified, based on a preliminary analysis, which of the California Sprint sites New T-Mobile expects to retain and/or decommission along with the latitude and longitude coordinates for those sites. The Excel spreadsheets provided to Cal PA in response to these data requests were Bates-stamped TMUS-CPUC-PA-90001302 and TMUS-CPUC-PA-11008099.
13. On November 7, 2018, in response to Cal PA DR 2-2, T-Mobile clarified that it uses the FCC's definition of "rural" when it uses that term in the context of these proceedings.
14. On October 10, 2018, in response to Cal PA DR 1-6, T-Mobile provided Cal PA with a confidential copy of Mr. Neville Ray's Declaration in Support of the Reply to the Joint Opposition filed at the FCC. That declaration explicitly provided: "This model [the model being used to develop the 5G network] is built upon the ordinary course engineering tool that T-Mobile has used since 2011/2012 and has been utilized to dictate capacity expansion and expenditures." The specific quote from the Ray Declaration was provided at Bates no. TMUS-CPUC-PA-00001232. This is the same declaration that

---

<sup>1</sup> I am informed and believe and on that basis declare that Cal PA has also issued over almost 240 pre-hearing Data Requests to Sprint (not including subparts). When subparts are included, Cal PA's data requests comprise approximately 660 separate requests for information.

was included as Attachment B to Mr. Ray's Rebuttal Testimony and, in relevant part, that was also publicly available since it was filed with the FCC on September 17, 2018.

15. The same Ray Declaration in Support of the Reply to the Joint Opposition also provided that "[m]y initial declaration [submitted with the PIS in June 2018] demonstrated that New T-Mobile can create a broad and deep, nationwide 5G and LTE network faster than either company could on a standalone basis. To analyze the potential for the LTE and 5G networks, we have developed an engineering model that measures capacity and congestion at the sector level for New T-Mobile (and the two standalone companies)."
16. On October 10, 2018, October 29, 2018 and December 3, 2018, in response to Cal PA DRs 1-6, 1-30, 1-122, 2-1, 2-2 and 4-17, T-Mobile provided Cal PA with information on the migration plan for Sprint consumers.
17. On October 10, 2018, in response to Cal PA DRs 1-30 and 1-33, T-Mobile explained to Cal PA that capital expenditure information was available only a nationwide basis.
18. On December 3, 2018, in a supplemental response to Cal PA DRs 1-30 and 1-33, T-Mobile explained to Cal PA that it had undertaken the task of creating a directional estimate of statewide network expenditures for both standalone and New T-Mobile and provided those estimates. Those are same estimates included in Mr. Sievert's Rebuttal Testimony.
19. I am familiar with and have reviewed the Joint Applicants' Rebuttal Testimony as well as all the intervenors' testimony and there is no reference any information provided to the United States Department of Justice ("DOJ") that had not already been produced to Cal PA in the course of pre-hearing discovery.
20. On October 29, 2018, in a supplemental response to Cal PA DR 1-30, T-Mobile provided Cal PA with several county-specific 5G coverage maps that had been created to illustrate the comparison of standalone T-Mobile and Sprint and New T-Mobile for 2021 and 2024. This first set of county maps was included as the documents beginning at Bates no. TMUS-CPUC-PA-10000132.
21. On December 21, 2018, in a further supplemental response to Cal PA DR 1-30, T-Mobile provided Cal PA with a complete set of county-specific 5G coverage maps that had recently been created to illustrate the comparison of standalone T-Mobile and Sprint and New T-Mobile for 2021 and 2024. The full set of county maps was included as the documents beginning at Bates no. TMUS-CPUC-PA-00005643. These were the same maps that were included as Attachment D to Mr. Ray's Rebuttal Testimony.



22. On October 10, 2018, in response to Cal PA DR 1-6, T-Mobile provided Cal PA with a confidential copy of Dr. Furchtgott-Roth in Support of the Reply to the Joint Opposition filed at the FCC. That declaration explicitly referenced, among other anticipated benefits of the New T-Mobile's 5G Network, the "...competitive response of other in-home broadband providers and paying \$5 - \$10 less per month." The specific reference to the \$5 - \$10 estimate was included in the document Bates-stamped TMUS-CPUC-PA-00001629. That is the same statement quoted by Mr. Sievert in his Rebuttal Testimony and was otherwise publicly available since the filing of Reply to the Joint Opposition with the FCC on September 17, 2018.
23. On November 5, 2018, in response to Cal PA DR 3-3, and on December 17, 2018 in response to Cal PA 6-3, T-Mobile provided Cal PA with confidential copies of network model presentations to the FCC and DOJ which included the 10.1 GB average data usage figures and the projected 10% increase in 5G device penetration rates. The specific references to that data were included on the documents Bates nos. TMUS-CPUC-PA 0005549, TMUS-CPUC-PA 11007986, TMUS-CPUC-PA 0005549, and TMUS-CPUC-PA 11007996. This is the same data that is referenced in Mr. Sievert's Rebuttal Testimony.
24. On October 10, 2018, in response to Cal DR 1-6, T-Mobile provided Cal PA with a confidential copy of the PIS and Mr. Sievert's Declaration in support of the PIS, both of which identify the anticipated 500GB usage for the New T-Mobile's in-home broadband product. The specific references were included on the documents Bates-stamped TMUS-CPUC-PA 00001719 and TMUS-CPUC-PA 00003903.
25. On December 3, 2018, in a supplemental response to Cal PA DR 1-122(g), T-Mobile provided Cal PA with an estimate of how many California customers it anticipated it would provide in-home broadband services.

I declare under penalty of perjury that the foregoing statements are true and correct based on my personal knowledge except where indicated otherwise.

Dated: March 14, 2019

\_\_\_\_\_  
/s/  
Leon M. Bloomfield