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-C) and T-Mobile USA, Inc., a Delaware Corporation,	)	Application No. 18-07-011
For Approval of Transfer of Control of Sprint Communications Company L.P. Pursuant to California Public Utilities Code Section 854(a)	)	

JOINT APPLICANTS' CONSOLIDATED REPLY TO ORA'S AND THE JOINT CONSUMERS' PROTESTS TO APPLICATION FOR APPROVAL OF WIRELINE TRANSFER OF CONTROL

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
susan.lipper@t-mobile.com

Stephen H. Kukta
Sprint Communications Company L.P
900 7th Street, NW, Suite 700
Washington, DC 20001
Telephone: 415.572.8358
Email: stephen.h.kukta@sprint.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.

Earl Nicholas Selby
Law Offices of Earl Nicholas Selby
530 Lytton Avenue, 2nd Floor
Palo Alto, CA 94301
Telephone: 650.323.0990
Facsimile: 650.325.9041
Email: selbytelecom@gmail.com

Attorneys for Sprint Communications Company L.P. (U-5112-C)

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I. INTRODUCTION

Pursuant to Rule 2.6(e) and consistent with Rule 3.6 of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure ("Rules"), Sprint Communications Company L.P. (U-5112-C) ("Sprint Wireline") and T-Mobile USA, Inc. ("T-Mobile USA") (collectively referred to as the "Joint Applicants"), respectfully submit this consolidated reply to the protest submitted by Office of Ratepayer Advocates ("ORA") and the joint protest filed by The Greenlining Institute ("Greenlining") and The Utility Reform Network ("TURN") (collectively referred to as "Joint Consumers").

In brief, ORA and the Joint Consumers (referred to collectively as the "Protestors") seem to suggest that the transfer of control of Sprint Wireline to T-Mobile USA should be subject to an exhaustive review by this Commission using criteria that go well beyond those required under

Section 854(a).[1] Among other things, the Protestors suggest that the Commission should: review the instant application under Section 854(b) and (c), take antitrust considerations into account, schedule public participation hearings and/or possibly hearings, and require the submission of highly granular information about Sprint Wireline's limited California operations. The Protestors also suggest that "California commitments" may be required of the Joint Applicants.

As discussed more thoroughly below, the Joint Applicants respectfully submit that those suggestions should be rejected by the Commission. They are inconsistent with the statutory mandates of Section 854(a) as well as the Commission's long-standing interpretation of that statute as reflected in its approach to requests for transfer of control of competitive local exchange carriers ("CLECs") and non-dominant interexchange carriers ("NDIECs"). In addition, Section 854(a) is clearly applicable given that Sprint Wireline's gross annual California revenues are substantially below the $500 million threshold for application of Section 854(b) or Section 854(c) – Protestors do not contend otherwise. The fact that the required review does not include an examination of the exhaustive criteria suggested by the Protestors is all the more appropriate given that Sprint Wireline provides service *exclusively* by *contract* to business and wholesale customers only, none of whom have protested the transfer. Moreover, T-Mobile provides no services which compete with Sprint Wireline and clearly meets the Commission's managerial, technical and financial requirements for an acquiring entity.

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[1] All statutory references are to the California Public Utilities Code.

Perhaps most strikingly, the Protestors raised almost identical concerns just five years ago in the context of the Softbank acquisition of Sprint. In response to the Softbank/Sprint Application to Transfer Control of Sprint Wireline, the Commission noted as follows:

> Protestants do not appear to oppose the Commission's granting the Application. Although they call for further inquiry, Protestants do not demonstrate any cause or need for such inquiry. Protestants do not identify any harm, either general or specific, that will befall ratepayers in California or the public interest if the Application is approved under Pub. Util. Code § 854(a). Protestants do not point to any specific instance in which either Sprint or SoftBank has failed to meet its public interest obligations. Although Protestants suggest a need for discovery and a prehearing conference in this proceeding, they do not actually ask the Commission to reject or deny the Application. Finally, Protestants do not suggest, let alone argue, that SoftBank, the third largest provider of wireless communications services in Japan, somehow lacks the requisite financial and managerial resources to operate Sprint Communications in California.[2]

In granting that application for the transfer of control of Sprint Wireline, the Commission found it was subject to Section 854(a), that no hearings or additional information were required, and that the indirect transfer of control was seamless to consumers and thus consistent with the public interest based on, among other things, Sprint's and Softbank's representations that "there will be no immediate changes to Sprint Communication's direct management or the service that Sprint Communications provides as a result of the transfer …[and] there will be no interruption or disruption of service to customers." Moreover, the Commission did not act on the protestors' request to consider the simultaneous transfer of Sprint Wireless as part of the Section 854(a) application.[3]

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[2] *See In re Application for Transfer of Control of Sprint Communications L.P. to Softbank*, D.13-05-018, 2013 Cal. PUC Lexis 277, **12-13 (the "*Softbank/Sprint Wireline Transfer Decision*").

[3] *Id*. at 2013 Cal. PUC Lexis 277 at **13-16.

The instant application is substantively identical to the Softbank/Sprint Wireline application and Joint Applicants submit that there is no basis for the Commission to reach a different conclusion with respect to this proceeding.

II. THE TRANSFER OF SPRINT WIRELINE IS SUBJECT TO SECTION 854(A) AND SHOULD BE REVIEWED BY THE COMMISSION ACCORDINGLY

The Joint Applicants acknowledge that Section 854(a) requires approval of the transfer of control of Sprint Wireline. ORA and the Joint Consumers do not challenge the applicability of Section 854(a) to this Application but instead suggest that the Commission should review the transfer of Sprint Wireline using the additional criteria of Section 854(b) and (c).[4] This suggestion should be rejected by the Commission.

As an initial matter, the Commission has *repeatedly* and *consistently* found that the "primary question" to determine in a transfer of control proceeding under Section 854(a) is whether the transaction will be "adverse to the public interest."[5] In brief, where – as is the case here – there is no interruption of service, no change of tariffs, no transfer of operating authority, no customer transfers, and no elimination of providers, the Commission has unfailingly

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[4] *See* ORA Protest at p. 2; *see* Joint Consumers' Protest at pp. 2-8.

[5] *See e.g., Joint Application of Webpass Telecommunications, LLC and Google Fiber Inc. for Approval of a Transfer of Control*, D. 17-03-018, 2017 Cal. PUC LEXIS 108 at *10; *Joint Application of G3 Telecom USA Inc. and Telehop Communications, Inc. for Section 854 Approval*, D. 14-08-016, 2014 Cal. PUC LEXIS 371 at *5; *Joint Application of Securus Technologies, Inc., T-NETIX Telecommunications Services, Inc., and Securus Investment Holdings for Section 854 Approval*, D. 13-10-004, 2013 Cal. PUC LEXIS 549 at *7; *Joint Application of Primus Telecommunications, Inc. and PTUS, Inc. for Approval of a Transfer of Control*, D. 13-09-017, 2013 Cal. PUC LEXIS 461 at **3-4; Joint Application of Yipes Enterprise Services, FLAG Telecom for Approval of a Change in Ownership of an Authorized Telecommunications Provider, D. 07-11-029, 2007 Cal. PUC LEXIS 643 at *8; *Joint Application of SFPP, CalNev PipeLine, Kinder Morgan, KnightCo, et al. for Section 854 Approval*, D. 07-05-061, 2007 Cal. PUC Lexis 227 at *34; *Joint Application of Wild Goose Storage Inc., EnCana Corp., Carlyle/Riverstone Global Energy and Power Fund III, L.P., et al. for Review under Section 854 et al.* D.07-03-047, 2007 Cal. PUC Lexis 309 at **6-8; *Application of Comm South Companies, Inc. and Arbros Communications, Inc. for Approval of Transfer of Control to Arcomm Holding Co*., *D.04-09-023, 2004 Cal. PUC Lexis 607 at **5-6; Joint Application of Qwest Communications et al. for Transfer of Control, D.00-06-079, 2000 Cal. PUC Lexis 645 at *17.*

determined that these transfers of control do not have any adverse impact on the public.[6] In other words, where the transaction is "seamless" to consumers, the transaction satisfies the standard.

Indeed, in the context of applications seeking to transfer control of certificated entities to non-certificated entities, the Commission focuses primarily on the qualifications of the new ultimate parent in terms of meeting the Commission's financial and technical requirements for obtaining a CPCN (i.e., $100,000 in liquid assets and appropriate technical experience).[7] There is no doubt that T-Mobile meets those qualifications and no party has challenged that here.[8]

The Joint Applicants do not dispute that the Commission *may* consider a broad range of criteria in evaluating whether the public interest standard has been met and they do not dispute that the Commission may, where it deems necessary, impose conditions in granting an approval of a transfer of control under Section 854(b) or (c). However, the use of those criteria – where appropriate – does not alter the standard to be applied or in any way suggest that new California-specific commitments are *required* in this case.[9] Moreover, the Commission has repeatedly stated that it is in the public interest to promote "a business climate that is hospitable to utilities" and that Section 854(a) transactions should be approved "absent a compelling reason to the

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[6] *See Joint Application of TeleCommunications Systems, Comtech and Typhoon for Transfer of Control*, D.16-06-048, 2016 Cal PUC Lexis 378 at *7; *see also* D.14-08-016, *supra*, 2014 Cal. PUC Lexis 371 at **7-8; D.07-11-029, *supra*, 2007 Cal. PUC Lexis 643 at **7-8; D. 04-09-023, *supra*, 2004 Cal. PUC LEXIS 607 at **6-7.

[7] *See e.g., Softbank/Sprint Wireline Transfer Decision* at * 13. *See also*, D.16-06-048, *supra*, 2016 Cal. PUC Lexis 378 at **7-10; D.14-08-016, *supra*, 2014 Cal. PUC Lexis 371 at * 5; D. 13-10-004, *supra*, 2013 Cal. PUC LEXIS 461 at **3, 5-6 (based on financial and technical qualifications of acquiring company, the transaction is deemed "not adverse to public interest"); D.12-03-040, 2012 Cal. PUC Lexis 89 at *7.

[8] *See* Joint Application at Sections IV and VI.

[9] *See e.g.,* D.07-03-047, *supra*, 2007 Cal. PUC Lexis 309 at *7 ("using criteria from other subsections as guidance does not change the standard of review for this transfer of control [under Section 854(a)]").

contrary."[10] The Joint Applicants submit that no reason to deny, compelling or otherwise, has been raised by the Protestors and the instant Application should be approved without delay.

The Commission's policy is further reflected in its 2004 decision to create an expedited process for non-dominant carriers to utilize advice letters for Section 854(a) approval.[11] Per that decision, non-dominant carriers, like Sprint Wireline, could use an advice letter provided they were already certificated (or were already the parent company of a certificated entity), were not affiliated with a California ILEC, had less than $500 million in annual California revenues, and there were no CEQA issues.[12] The fact that T-Mobile USA and Sprint Wireline – which otherwise meet all the criteria noted above – chose to use the application process instead of filing an advice letter does not alter the level of review that is appropriate in this case.

Further, the Commission's long-standing policy has been "uniformly" to exempt transactions involving CLECs and NDIECs, such as Sprint Wireline, from the requirements of

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[10] *See e.g., Application of SJW Corp for Approval of Reincorporation*, D.16-05-037, 2016 Cal. Lexis 607 at **7-8; *Joint Application of Frontier Communications Corporation, New Communications Holdings, Inc., et al. For Approval of the Sale of Assets, Transfer of Certificates and Customer Bases, and Issuance of Additional Certificates*; D. 09-10-056, 2009 Cal. PUC LEXIS 546 at *21-22; *Application of PacifiCorp and MidAmerican Energy Holdings Company for Exemption under Section 853 (b) from the Approval Requirements of Section 854(a)*, D. 06-02-033, 2006 Cal. PUC LEXIS 49 at *57; D. 05-06-012, *supra* at *10; *Joint Application of Lynch Telephone Corporation, Brighton Communications Corporation, Cal-Ore Telephone Co., et al*., D. 05-05-014, 2005 Cal. PUC Lexis 176 at *7; D.04-09-023, *supra*, 2004 Cal. PUC Lexis 607 at *7.

[11] *See CALTEL Application to Modify Section 851-854 Procedures*, D.04-10-038, 2004 Cal. PUC Lexis 511 (granting CALTEL's application, in part, to provide advice letter process for non-dominant CLECs to obtain 854(a) approval via the advice letter process).

[12] *Id.* at 2004 Cal. PUC Lexis 511 **14-17 (Appendix A). This process has been successfully used by carriers on many occasions. See XO AL 1281 (re transfer of XO to Verizon – March 18, 2016); see also Qwest AL 172 (re transfer of control of Qwest to CenturyLink – May 14, 2010), tw telecom california AL 577 (re transfer of control of tw telecom to Level 3 – July 3, 2014).

Section 854(b) and (c).[13] Indeed, as far as the Joint Applicants have been able to determine, the Commission decisions regarding Section 854(a) approvals for telecommunications carriers do not rely on, or even reference, the Section 854(b) and (c) provisions as a general matter.[14]

III. THERE IS NO BASIS TO ASSERT THAT THE COMMISSION SHOULD CONSIDER ANTITRUST IMPLICATIONS OF THE SPRINT WIRELINE TRANSFER

ORA's further suggestion that the transaction raises "antitrust concerns" that should be considered is unfounded.[15] As an initial matter, the Joint Applicants are aware of no Section 854(a) decision where antitrust considerations were taken into account. As noted above, such a process would be entirely inconsistent with Commission precedent and its long-standing practice and policy.

Moreover, ORA's reliance on a 1971 case involving the Commission's grant of a CPCN to PG&E to construct a geothermal plant is misplaced. In that case the Commission initially granted the CPCN despite contentions that the contracts under which the utility company planned to purchase steam violated federal and state antitrust laws.[16] On review, and despite PG&E's arguments to the contrary, the court annulled the Commission decision and instructed it to consider the antitrust issues in the context of granting the CPCN to construct the plant. The court made it clear that such considerations were appropriate, when raised, in the context of

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[13] *Joint Application of SBC Communications, Inc. and AT&T Corp. Inc. for Authorization to Transfer Control*, D. 05-11-028, 2005 Cal. PUC LEXIS 516, at *33 (Commission notes that it has "authorized scores of transactions involving NDIECs and CLECs, but uniformly has exempted them from the detailed requirements of § 854(b) and, with limited exception, § 854(c).").

[14] *See* nn. 5-7, 9-10; *see also Joint Application of Sierra Pacific Power and California Pacific Electric*, D.10-10-017, 2010 Cal. PUC Lexis 403 at *21("…only where §§ 854(b) and (c) expressly apply, must the Commission make all of the findings those subsections require").

[15] *See* ORA Protest at p. 2.

[16] *See id*., citing *Northern California Power Agency v. Public Utilities Commission* (1971) 5 Cal. 3d 370, 377; 1971 Cal. LEXIS 259 at **377-381.

determining whether a particular project was in the public interest and thus entitled to a CPCN. The case, however, does not require that antitrust considerations be reviewed in the context of an application for approval of a Section 854(a) transfer of control. Moreover, by their very nature, non-dominant CLEC/NDIEC's lack market power and transfers of control of such entities do not raise antitrust concerns nor have they been subjected to extensive review by the Commission. There is no reason to proceed otherwise in the context of this transfer of Sprint Wireline, a non-dominant CLEC/NDIEC with comparatively – and indisputably – minimal California operations.

Moreover, although not directly relevant to this application for approval of an indirect transfer of control of Sprint Wireline, the Joint Applicants note that there is a well-established framework under U.S. antitrust law to evaluate the competitive impact of transactions, under which authorities such as the U.S. Department of Justice and the California Attorney General are empowered to conduct a thorough review. Federal antitrust law provides authority to state attorneys general to address state-specific antitrust concerns. The parties are actively cooperating with reviews of the transaction under this framework. [17] To suggest that the Commission replicate the work of the DOJ, or otherwise try to undertake a separate antitrust analysis for California alone, would at best be duplicative, and therefore unnecessary, in this proceeding.

IV. THE INDIRECT TRANSFER OF CONTROL OF SPRINT WIRELINE IS CONSISTENT WITH, NOT ADVERSE TO, THE PUBLIC INTEREST

As discussed at length in the Application, the transfer of control of Sprint Wireline will not have any adverse effect on, and will otherwise be seamless to, Sprint Wireline's customers,

[17] The FCC also is evaluating the merger under its 'public interest' standard that includes reviewing the transaction for harms to competition. The merger had been placed on public notice with petitions to deny and comments due August 27, 2018; oppositions due September 17, 2018 and responses on October 9, 2018. The proceeding invited full public participation and at least one of the protesters appears to be a participant.

all of whom are either business or wholesale customers. Upon consummation of the Transaction, Sprint Wireline will continue to provide the services that it currently provides to customers in this State, subject to Sprint Wireline's existing plans to discontinue its TDM services and transition customers to Internet Protocol ("IP") services.[18] All existing Sprint Wireline contracts will be honored, including transitioning customers to IP services. Moreover, Sprint Wireline will continue to assess, collect, and remit surcharges on intrastate revenue associated with its services either as a CLEC/NDIEC and/or as an unregulated VoIP provider pursuant to California law and the Commission's rules.

The Joint Applicants reiterate that granting this Application will not cause any change in the regulatory authority over Sprint Wireline that the Commission currently possesses. Thus, the Commission's ability to monitor and regulate Sprint Wireline, as well its respective regulatory obligations (e.g., reporting, user fees, surcharges, etc.) will remain unchanged.[19]

In addition, there is no basis to suggest that the transfer will have any impact on the provision of CLEC or NDIEC service or competition in that market, including but not limited to middle-mile service.[20] As the Commission is aware, Sprint Wireline's operations in California are modest by any standard and it is undisputed that neither T-Mobile, nor either of its California operating subsidiaries, provides such services or are certificated to do so. Indeed, Sprint

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[18] The Joint Applicants describe Sprint Wireline's transition from a TDM network to Voice over Internet Protocol ("VoIP") services in the Application. *See* Joint Application at p. 15, n. 36. In brief, all such services are contractually provided and Sprint Wireline has already affirmed its intent to honor all existing contracts. Moreover, Sprint Wireline does not provide any service to residential customers; its services are provided only to business and wholesale customers. Thus, ORA's suggestion that further information about the transition (e.g., customer notices schedules, etc.) would serve no purpose. *See* ORA Protest at pp. 5-6; *see also* Section V, *infra*.

[19] The Joint Applicants note that Sprint Wireline already provides service on a detariffed basis.

[20] *See* Joint Consumers' Protest at p. 9 (asserting unspecified "clear and concrete impacts" on middle market/backhaul).

Wireline does not even provide backhaul services to T-Mobile, or any other wireless providers, here in California. Moreover, any suggestion that this transfer of control would have a material, or any, impact on the market is directly contradicted by the Commission's 2016 Competition Docket Decision in which the Commission determined that the legacy carriers dominate this market (e.g., backhaul, long haul, enterprise, etc.).[21] It is simply not credible to assert that the transfer of control of Sprint Wireline to T-Mobile would alter that reality. If anything, the transfer will increase the managerial, technical, and financial resources available to Sprint Wireline. Sprint Wireline will become part of a much larger entity with substantial financial resources.

There is simply no plausible risk of competitive harm resulting from the wireline operations of Sprint Wireline being acquired by a new corporate parent. In sum, the transfer of Sprint Wireline to T-Mobile USA will have no adverse impact on California consumers or the telecommunications market.

V. THE APPLICATION PROVIDES SUFFICIENT INFORMATION TO APPROVE THE TRANSFER

As discussed above and in the Wireline Application, the Joint Applicants have provided sufficient information to support approving the transfer of control of Sprint Wireline under Section 854(a). It is unclear how any additional information would be required or necessary in

[21] *See In re Investigation into the State of Competition among Telecommunications Providers*, D.16-12-025; 2016 Cal. PUC Lexis 683 at *133 ("The two largest ILECs provide approximately 4.2 million wireline business connections, more than the largest CLECs and cable companies combined.")..."); *id.* at *159, n. 262 ("…special access/BDS services are largely, but not completely, in the hands of the incumbent carriers…"); *id.* at *167 ("The FCC has found that (i) legacy carriers still exercise considerable market power in the special access market, with ILECs and their affiliates accounting for $37 billion of the $ 45 billion in national BDS revenue…); *id.* at **171-172 (noting concern with ILECs providing backhaul to affiliated wireless carriers and noting that even now, "…cable and other providers of backhaul supply about 15-20 percent of that market, still leaving one legacy carrier supplying backhaul to a majority of cell towers statewide").

order to review and approve the Application or to otherwise determine that the transfer is not adverse to the public interest. To the contrary, and as previously discussed, the limited nature of Sprint Wireline's operations in California, the seamless nature of the transfer to Sprint Wireline's customers (none of whom are residential customers), and the fact that T-Mobile clearly has the necessary technical expertise and financial resources to be an acquiring entity, should make both the analysis and the path to approval straightforward.

Nonetheless, ORA suggests that the Commission should require the Joint Applicants to submit additional information about, among other things, Sprint Wireline's service offerings, line counts, infrastructure location and pricing information.[22] Aside from the fact that no such information was required in the context of the Sprint Wireline transfer to Softbank in 2013, the information sought by ORA has no bearing on the review required by Section 854(a) in this instance.

VI. CONSOLIDATION CANNOT TRANSFORM THE NATURE OF THE UNDERLYING APPLICATIONS OR THE COMMISSION'S JURISDICTION

Both ORA and the Joint Consumers suggest that this Application to Transfer Control of Sprint Wireline should be consolidated with the simultaneously filed Application to Review the Wireless Transfer Notification.[23] In essence, the Protestors assert that, because both

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[22] *See* ORA Protest at pp. 5-6.

Similarly, the Joint Consumers raise the issue of what service offerings Sprint Wireline provides. *See* Joint Consumers' Protest at p. 9. They then assert that the transfer will "have clear and concrete impacts on Sprint [Wireline] as well as other middle mile providers in T-Mobile and Sprint service territories" without any foundation and in direct conflict with the Commission's own finding that this market is dominated by legacy carriers and cable providers. *See* p. 9, n. 20, *supra*. The Commission should not be persuaded by this type of conjecture or otherwise allow the Application process to become a proverbial fishing expedition. At best, these types of questions will only unnecessarily extend the time and resources required to resolve this 854(a) request.

[23] *See* ORA Protest at p. 4; Joint Consumers' Protest at pp. 4-6.

Applications stem from the same underlying transaction, they should be considered together using the same exhaustive and detailed criteria generally reserved for Section 854(b) and (c) applications.

Consolidation does not seem necessary or appropriate in this case. For example, Sprint Wireline and Sprint Wireless are separately regulated entities that offer wholly different services that are subject to legally and functionally distinct regulatory paradigms. In addition, the fact that both proceedings share the same Assigned Commissioner and Assigned ALJ mitigates, if not eliminates, any possible concerns regarding scheduling conflicts or information gaps for either. If anything, consolidation could be more of a complication than a helpful administrative tool and could impede the timely consideration of each application on its own merits.

Moreover, and perhaps most importantly, consolidation cannot alter the nature of the underlying applications or the scope of the Commission's authority/jurisdiction to act on those applications. The pending applications raise different issues regarding distinctly different segments of the telecommunications marketplace, and thus are subject to distinctly different legal precedents and review criteria – e.g., the instant wireline application seeks approval of the transfer of control under Section 854(a) while the wireless application involves a request for review of a notification under D.95-10-032. Indeed, the differences are reflected in the respective applications and in the protests to those applications.[24] Consolidation of the dockets does not – and cannot – alter that in any way.

[24] The Joint Consumers filed substantively identical protests in both proceedings. However, a close reading of the protests reveals that the bulk of the text is devoted to A.18-07-012 (the wireless application) with only limited references to the wireline application.

VII. ORA's REIMBURSEMENT REQUEST IS AT BEST PREMATURE

ORA's request for reimbursement of expert expenses needed to analyze the underlying merger in the context of the Section 854(a) application is inconsistent with its prior practice and, at best, premature.[25] The Joint Applicants acknowledge the provision in the recently adopted 2018 Budget Act and intend to comply fully with legal obligations that may be determined by the Commission.[26] However, no expert expenses have apparently been incurred by ORA in the context of this proceeding at this time. Moreover, no such expenses seem warranted given that the indirect transfer of control of Sprint Wireline to T-Mobile USA satisfies the standard for approval required by Section 854(a) and Commission precedent. Indeed, the Joint Applicants have been unable to identify any instance in which ORA either utilized the services of an expert witness in a Section 854(a) request or otherwise sought reimbursement.

Finally, the Joint Applicants note that it is unclear what process the Commission will ultimately utilize to determine if there are reimbursable "necessary expenses" under the Budget Act in this proceeding and, if so, how they should be reimbursed.[27] At a minimum, the Joint Applicants would expect there to be some process for reviewing specific requests and raising objections where appropriate. In any event, the request seems misplaced in this proceeding.

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[25] *See* ORA Protest at p. 3.

[26] As ORA accurately noted, this same provision has been in the budget acts for the past several years. *See* ORA Protest at p. 3, n.12.

[27] Joint Applicants note that, in certain prior proceedings, ORA has apparently been reimbursed for expert costs pursuant to contract. By the same token, where no contract exists, no such compensation has been ordered. *See, e.g.*, *In re Comcast/Time Warner Merger*, D.15-07-037; 2015 Cal. PUC LEXIS 457 at **39-40.

VIII. NO HEARINGS ARE NECESSARY OR APPROPRIATE

ORA suggests that the Commission conduct public participation hearings ("PPHs") "throughout the service territories of Sprint Wireline, Sprint Wireless and T-Mobile in California to receive feedback from the public on this Proposed Transaction."[28] The Joint Consumers suggest that after a "fact-finding phase," the Commission seek comments from the parties as to the need for hearings to "clarify or decide disputed issues of fact."[29] No such hearings are either necessary or appropriate.

As noted above, the Joint Application provides the information necessary to enable the Commission to "reach findings on all issues that California statutes require the Commission to address" when evaluating a Section 854(a) application.[30] It is clear that, among other things: (a) Sprint Wireline has relatively nominal operations in California, (b) the transfer will be seamless to its (exclusively) business and wholesale customers, none of whom have protested this Application, (c) T-Mobile USA has more than sufficient managerial, technical, and financial qualifications as an acquiring company, and (d) there will be no impact on California's CLEC/NDIEC market or competition resulting from this transfer. In short, hearings could serve no justifiable purpose and would, at the very best, merely require the expenditure of significant resources and time. Moreover, the Joint Applicants are unaware of any Section 854(a) transfers

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[28] *See* ORA Protest at p. 7.

[29] *See* Joint Consumers' Protest at p. 25.

[30] Application of Comcast Business Comm'cns, Inc. for Approval of the Change of Control of Comcast Business Comm'cns, Inc., D.02-11-025 at p. 36 (Nov. 7, 2002) (In approving the acquisition of AT&T Broadband by Comcast, the Commission further explained its denial of request by protesting parties that hearings were necessary stating "the structure of this decision, which addresses each provision of the guiding and controlling statutes, demonstrates that there is no need for hearings . . . .").

that warranted hearings or public participation hearings and none are warranted in this instance either.

IX. NO ADDITIONAL COMMITMENTS ARE REQUIRED

ORA suggests, and the Joint Consumers imply, that there may be cause to condition the approval of this transfer on the imposition of as yet unnamed California-specific commitments.[31] There is no basis for that suggestion or for the imposition of commitments beyond those that are inherent to the Application – i.e., Sprint Wireline will honor its contractual commitments to its customers, comply with the Commission's rules and regulations, and continue to collect, assess, and remit mandated surcharges.

There is nothing in the law or any statute that requires commitments to be made as a condition of approval for the transfer of control of non-dominant carriers and the Protestors cannot and do not point to one. The requirements for obtaining and maintaining a CPCN in California are clearly set forth by the Commission.[32] Indeed, it is neither legally appropriate nor practical to impose additional burdens on a non-dominant carrier that is, in essence, doing nothing more than transferring control from one non-dominant parent company to another, with no impact on its customers or consumers generally, and with no impact on CLECs/NDIECs in markets that are dominated by the legacy/incumbent carriers and large cable providers – i.e., the carriers that are more often the cause of concern for the Protestors and the Commission. If anything, to require additional commitments here as a condition of approval would harm competition by weakening Sprint Wireline and thus actually be counterproductive.

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[31] *See* ORA Protest at p. 2; *see* Joint Consumers' Protest at pp. 23-24.

[32] *See* Commission Website re Registration and Certification at http://www.cpuc.ca.gov/General.aspx?id=1019.

The Joint Applicants are aware that in the context of mergers of large, dominant California carriers, the Commission has imposed affirmative conditions/commitments on carriers. Indeed, oftentimes those commitments arise in the context of settlement agreements with these very same Protestors. However, all of those mergers involve either legacy carriers or cable providers with exclusive franchises that provide direct service to residential consumers. That is not the case here.

X. CONCLUSION

For the reasons stated above and in the Joint Application, the Joint Applicants respectfully submit that the transfer of control of Sprint Wireline is not adverse to the public interest and should be expeditiously approved per Public Utilities Code Section 854(a). In the

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meantime, the Joint Applicants look forward to continuing to work cooperatively with the Commission, ORA and the Joint Consumers.

Respectfully submitted this 27th day of August, 2018 in San Francisco, California.

/s/

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
susan.lipper@t-mobile.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.

/s/

Stephen H. Kukta
Sprint Communications Company L.P
900 7th Street, NW, Suite 700
Washington, DC 20001
Telephone: 415.572.8358
Email: stephen.h.kukta@sprint.com

Earl Nicholas Selby
Law Offices of Earl Nicholas Selby
530 Lytton Avenue, 2nd Floor
Palo Alto, CA 94301
Telephone: 650.323.0990
Facsimile: 650.325.9041
Email: selbytelecom@gmail.com

Attorneys for Sprint Communications Company L.P. (U-5112-C)