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 for Approval of Transfer of Control of Sprint Communications Company L.P. Pursuant to California Public Utilities Code Section 854(a)	)))))))	Application No. 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 No. 18-07-012

JOINT APPLICANTS' EXECUTIVE SUMMARY OF REBUTTAL TESTIMONY

JANUARY 29, 2019

I. BACKGROUND

On July 13, 2018, Sprint Communications Company L.P. (U-5112-C) ("Sprint Wireline") and T-Mobile USA, Inc. ("T-Mobile USA") filed a Joint Application for Approval of Transfer of Control of Sprint Communications Company L.P. Pursuant to California Public Utilities Code Section 854(a), which has been docketed as A. 18-07-011 (the "Wireline Approval Application"). On that same date, Sprint Spectrum L.P. (U-3062-C) and Virgin Mobile USA, L.P. (U-4327-C) (collectively referred to as "Sprint Wireless"), along with T-Mobile USA, filed a Joint Application for Review of a Wireless Transfer Notification Per Commission Decision 95-10-032, which has been docketed as A.18-07-012 (the "Wireless Notification").

II. SUMMARY OF REBUTTAL TESTIMONY

A. The Wireline Approval Application

The Joint Applicants have shown that the Wireline Approval Application easily meets the Commission's well-established standard for obtaining approval under California Public Utilities Code § 854(a).

- Sprint Wireline, a non-tariffed competitive local exchange carrier ("CLEC") and non-dominant interexchange carrier ("NDIEC"), provides services in California to enterprise and wholesale exchange customers.[1]
- The wireline transfer of control will be seamless for Sprint Wireline's customers.
  - Sprint Wireline will continue to provide the *same services* in California, subject to Sprint Wireline's existing plans to discontinue its legacy Time-Division Multiplexing ("TDM") services and transition its customers to newer Internet Protocol ("IP") services.[2]
  - All existing Sprint Wireline contracts will be honored, including transitioning customers to IP services.[3]

[1] Wireline Approval Application at 2.

[2] Wireline Approval Application at 15.

[3] Wireline Approval Application at 15.

- There will be no impact on the provision of CLEC or NDIEC services in California or on competition in that market (including the market for middle-mile and backhaul services).
    - Indeed, neither T-Mobile USA nor any of its subsidiaries provides such services in California.[4]
    - Sprint Wireline does not provide backhaul services in California.[5]
- Sprint Wireline will continue to assess, collect, and remit surcharges on its intrastate revenue derived from its services as a CLEC, NDIEC, or provider of Voice over Internet Protocol ("VoIP") services.[6]
- The Commission will retain the same regulatory authority that it currently exercises over Sprint Wireline.[7]
- Sprint Wireline will become part of a much larger entity with substantial managerial experience and financial resources, and therefore will be able to more effectively compete with unaffiliated providers of CLEC and NDIEC services in California.[8]
- T-Mobile USA meets and exceeds the Commission's standard for financial and managerial expertise for assuming control of Sprint Wireline.[9]

B. The Wireless Notification

1. Overview of Benefits

As to the wireless services described in the Wireless Notification, the post-merger entity – New T-Mobile – will be able to deliver a host of compelling benefits to consumers in California (and across the country), with no offsetting harms, that simply would not be achievable by either T-Mobile or Sprint on their own. The Joint Applicants provide their testimony describing these benefits for purposes of informing the Commission's review of the

[4] Wireline Approval Application at 3.
[5] Testimony of Peter Sywenki at 13-14.
[6] Wireline Approval Application at 15.
[7] Wireline Approval Application at 16.
[8] Wireline Approval Application at 12-14.
[9] Wireline Approval Application at 14.

Wireless Notification.[10] The enormous public-interest benefits include, but are in no way limited to:

- The accelerated deployment of a world-class 5G network with massively increased capacity (8X that of total combined capacity of today's standalones by 2024), lower costs, higher speeds (14X that of today's T-Mobile by 2024), and increased coverage (reaching 99% of California population by 2024). This network will benefit all California consumers, regardless of income level, and jumpstart the next round of California tech leadership.[11]

- New T-Mobile's tremendous increase in network capacity and dramatically reduced costs will result in more data at lower prices across California, benefiting all Californians. Indeed, lower-income customers with wireless-only Internet access stand to benefit the most from fiber-like speeds, as they increasingly rely on mobile devices as their primary means of accessing the Internet. In addition, New T-Mobile's network will allow more customers to "cut the cord" and save even more.[12]

- Intensified competition in wireless as New T-Mobile will have the network and scale to finally – for the first time – go toe-to-toe with Verizon, AT&T, and large cable companies. As the "Un-carrier" maverick, New T-Mobile will be equipped with the network and scale to leapfrog its competitors, forcing them to respond by investing in their networks and services – an example of robust competition working to help consumers. As a result, consumers across the industry and across the country will pay on average over 50% less per gigabyte for their service than they would without the merger by 2024.[13]

- Vastly improved wireless broadband service for Californians living outside densely-populated urban areas, along with new stores located to serve small towns and rural communities.[14] This wireless broadband service will present a new alternative to those who currently have only one, or in some cases no, current options for broadband, allowing many Californians to cut the cord and cross the digital divide.

- For the first time, true competition and choice for in-home broadband that will save California consumers hundreds of millions of dollars annually by 2024.[15]

- The continued presence of a facilities-based Lifeline provider to serve eligible low-income customers, providing service over a significantly expanded coverage area.[16]

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[10] *See Investigation on the Commission's Own Motion Into Mobile Telephone Service and Wireless Communications*, D. 95-10-032, 1995 Cal. PUC LEXIS 888, at *25, *31, *46 (Ordering Clause 3(c)); 47 U.S.C. §§ 253(a), 332(c)(3)(A); *see also* Wireless Notification at 1 n.1.

[11] Testimony of Neville Ray at 31-39, 44-45

[12] Testimony of Neville Ray at 4.

[13] Testimony of G. Michael Sievert at 19-20.

[14] Testimony of Neville Ray at 37-42.

[15] Testimony of G. Michael Sievert at 19-20.

[16] Testimony of Marie Sylla Dixon at 3.

- A robust network with a proven emergency response capability.[17]

- Expanded choices, better quality, and competition for the benefit of Mobile Virtual Network Operators ("MVNOs").[18]

- Expanded choices and competition for enterprise and Internet of Things ("IoT") services.[19]

- Jobs growth at New T-Mobile nationwide and in California specifically.[20]

2. Evidence Refuting the Testifying Parties' Assertions

Various intervenors – the California Public Advocates Office ("Cal PA"), Communications Workers of America, the Center for Accessible Technology, and Greenlining (collectively, the "Testifying Parties") – question the benefits flowing from the wireless transaction. Their testimony can be reduced to three main unsupported assertions: (1) T-Mobile and Sprint standalone could build equivalent 5G networks without the merger, and the parties have therefore overstated the benefits of the merger; (2) the combination of the third and fourth largest wireless carriers will reduce competition; and (3) New T-Mobile could abandon low-income customers by raising prices. As is explained in the Joint Applicants' Rebuttal Testimony, all three assertions are demonstrably wrong and contrary to the record evidence.

> **1. T-Mobile and Sprint Standalone 5G Plans Are Not Even Close to What New T-Mobile Will Deliver.** Cal PA asserts that T-Mobile is already spending billions of dollars on 5G deployment and argues that T-Mobile alone is fully capable of rolling out a true 5G network.[21] As Mr. Ray explains, however, this reflects a fundamental misunderstanding of what it takes to deploy robust 5G available broadly to all. The benefits of New T-Mobile's 5G network in terms of greater coverage, faster speed, and massive capacity – and the myriad consumer benefits and potential uses which depend on

[17] Testimony of Neville Ray at 46-48.

[18] Testimony of Thomas Keys at 11-14.

[19] Testimony of G. Michael Sievert at 38-40.

[20] Testimony of G. Michael Sievert at 40-44.

[21] Reed Testimony at 12; Selwyn Testimony at 14-15; *see also* Reed Testimony at 10 (asserting that benefits of merger are only benefits of 5G in general).

those metrics – are simply not possible without the ***critical combination of spectrum and other assets*** created by the merger.[22]

The 5G network that New T-Mobile will be able to deploy – for the benefit of Californians and millions of other consumers nationwide – will be dramatically better than the network that either T-Mobile or Sprint could deploy on its own. The combined California network will more than double 5G monthly capacity relative to the standalone networks. By 2024, the total capacity of the new network – inclusive of LTE – will be approximately twice the combined capacity of the standalone firms. That is because the merger will combine T-Mobile's and Sprint's complementary spectrum and sites, enabling the creation of both a broad and deep 5G network in California and the U.S. On its own, T-Mobile's 5G network would have good coverage but relatively limited capacity (in other words, it would be broad but thin); and for its part, Sprint's 5G network would have capacity, but very limited coverage (it would be deep where it exists but lightly deployed). Simply put, T-Mobile and Sprint – as standalone entities – do not have the spectrum, the sites, or the resources to create a network that would so significantly transform the competitive wireless landscape as New T-Mobile.[23]

Moreover, neither company would have incentives comparable to New T-Mobile's to expand service in rural and less densely-populated areas, because their costs for doing so would be much higher and would have to be spread across a much smaller customer base (as compared with New T-Mobile).[24] Additionally as Mr. Draper explains in detail, contrary to assertions in Cal PA's Testimony,[25] Sprint remains "highly leveraged," expects to become free cash flow negative again in FY18, and faces severe challenges arising from its lack of scale, legacy-CDMA technology, and limited ability to materially improve its network coverage.[26]

2. Competition Will Intensify – This is Not a Standard "4-to3" Merger. Modern competition analysis should not be reduced to a simple shorthand exercise in unsubstantiated generalities. From an economic perspective, a merger is anticompetitive only when it leads to artificial reductions in supply, increases in price, or lower quality, thereby reducing consumer welfare. The intervenors have not seriously contested the Joint Applicants' well-supported and empirical demonstration that the combination of T-Mobile and Sprint will result in a massive increase in the capacity of the combined network, lower prices, and higher quality service.

Cal PA's economic expert (Dr. Selwyn) raises speculative and generalized concerns about the potential effects of the combination of the merger on the wireless industry, but fails to conduct any rigorous analysis grounded on sound economic principles. In particular, as T-Mobile's economist expert (Dr. Israel) points out, Dr. Selwyn fails to

[22] Testimony of Neville Ray at 13-21.
[23] Testimony of Neville Ray at 13-25.
[24] Testimony of Neville Ray at 3-4 and 10-18; *see also* Sievert Testimony at 30-32.
[25] Clark at 12-17.
[26] Testimony of Brandon Dow Draper at 3-5.

construct an economic model to show either the potential costs or benefits of the proposed merger.[27] In contrast, Dr. Israel and his colleagues conducted detailed economic analyses to look at the impacts of the merger on competition and concluded that the proposed merger will strengthen competition and benefit California consumers by increasing consumer welfare.

Dr. Selwyn does not offer any detailed criticism of the primary model used by T-Mobile's economists to evaluate the merger (the Israel, Katz, and Keating or "IKK" model),[28] and Dr. Selwyn's critiques of the empirical work of Professor Bresnahan of Stanford makes fundamental errors in elementary economics. The IKK model shows that consumers will benefit because New T-Mobile's planned network will allow the combined firm to achieve lower marginal costs of providing services and to offer higher quality services than would either merging party operating on its own. With lower costs that will come from unique network efficiencies and increased capacity, New T-Mobile's incentives are to ***lower prices*** and ***increase product quality*** in order to attract more customers and thereby earn higher profits.[29] New T-Mobile's ability to offer consumers greater value for their money will, in turn, exert competitive pressures on rival service providers to respond by both reducing their own prices and improving their own services, further benefiting consumers.[30] Professor Bresnahan shows that all types of customers value network quality, particularly low-income consumers who rely on their phones for their Internet access.[31] Professor Bresnahan further explains that network quality improvements resulting from the transaction will allow consumers of all carriers to benefit from more robust competition, improving quality and declining prices to California consumers.[32]

3. Low-Income Customers, Just Like All Other New T-Mobile Customers, Will Benefit from Lower Prices, Higher Quality Service, and Expanded Coverage. Cal PA asserts that the merger will decrease the incentives of the new, combined entity to maintain current price levels and that this will likely result in price increases for consumers.[33] This is absolutely incorrect. As Mr. Sievert explains, ***New T-Mobile will not have an incentive to raise prices***; to the contrary, post-merger New T-Mobile will have massive capacity and lower costs with strong incentives to maximize the potential of its new network by adding new customers. By pricing highly competitively, New T-Mobile will be able to gain significant share from the incumbent wireless and broadband providers and deliver value to its shareholders and investors while delivering massive benefits to consumers at the same time.[34] Furthermore, as Mr. Keys explains, raising

[27] Testimony of Mark Israel at 3.

[28] Testimony of Mark Israel at 4-5.

[29] Testimony of G. Michael Sievert 22, 24, 34.

[30] Testimony of Mark Israel at 3.

[31] Testimony of Timothy Bresnahan at 37-39.

[32] Testimony of Timothy Bresnahan at 4-5.

[33] Odell Testimony at pp 12 and 18; Selwyn at 58.

[34] Testimony of G. Michael Sievert at 11.

prices for prepaid wireless is a recipe for rapidly losing customers, given the ease with which customers can switch providers.[35] If New T-Mobile were to raise the prices of its prepaid plans, it would risk losing many customers to competing carriers (including AT&T, Verizon, MVNOs, and cable providers).[36]

T-Mobile has a proven track record of eliminating customer pain points and seeking out and serving all consumers. New T-Mobile will continue to do just that, with a 5G network blanketing the State of California and a network-driven business plan designed to deliver more value for money to all Californians, including those who are unserved or underserved today. Doing anything else would be completely contrary to what T-Mobile valuable brand stands for and what T-Mobile has worked so hard and invested so much to create.

III. INDICES OF TOPICS ADDRESSED BY REBUTTAL TESTIMONY

A. Testimony Topics by Witness

WITNESS	TOPIC AREAS
G. Michael Sievert President and Chief Operating Office T-Mobile USA, Inc.	Benefits of the Merger: World-Class 5G Network; Pricing and Business Plans; Rural Service; In-Home Broadband; Enterprise and IoT; Jobs
Neville Ray Executive Vice President and Chief Technology Officer T-Mobile USA, Inc.	Network: Spectrum and 5G; Sites and 5G; Refarming Spectrum; Network Model; Impact on Capacity; Impact on Coverage; Impact on Speed; Rural Benefits; Customer Migration; Emergency Response; Network Resiliency; Support for First Responders
Tom Keys President MetroPCS Communications Inc.	Consumer Benefits; Impact of Merger on Low-Income Consumers and Communities of Color; Prepaid Wireless Plans; MVNOs; Customer Migration
Brandon Dow Draper Chief Commercial Officer Sprint Corporation	Sprint's Financial Condition; Sprint's Standalone Plans; Competition for Sprint in the Wireless Industry
Mark Israel Senior Managing Director Compass Lexecon	Economic Analysis of Merger; Merger Simulation Analysis; Merger Effects; Consumer Welfare Effects of the Merger; Relevant Markets; Remedies
Timothy Bresnahan Landau Professor in Technology and the Economy in the Department of Economics at Stanford University	Economic Analysis of Merger: Competitive Effects of the Merger; Market Analysis

[35] Testimony of Thomas Keys at 9-10.

[36] Ray at 42-46.

Marie Sylla Dixon Vice President of Government and External Affairs T-Mobile USA, Inc.	Lifeline; Low-Income, Diversity, Customer Care, Mandatory Arbitration/Class Action Waivers
Susan Brye Director Third-Party Risk Management Program T-Mobile USA, Inc.	Third-Party Privacy Issues
Travis Dodd Senior Privacy Director T-Mobile USA, Inc.	Children's Online Privacy Protection Act (COPPA) Issues
Pete Sywenki Director – Government Affairs Sprint Corporation	Sprint Wireline Issues

B. Topics Identified in Scoping Memo and Corresponding Testimony

While the Joint Applicants continue to respectfully maintain that the Wireline Approval Application and Wireless Notification raise distinct factual and issues (which must be considered under different jurisdictional standards) and therefore should be considered separately,[37] the Commission has consolidated its consideration of both proceedings,[38] and the Amended Scoping Memo identified a number of topics of potential interest to the Commission in that consolidated review.[39] Accordingly, for the Commission's convenience, we indicate below which portions of the Joint Applicants' testimony address the topics identified in the Amended Scoping Memo.

	Topics Identified Amended Scoping Ruling	**Joint Applicant Rebuttal Testimony Witness**
1	How would the merger impact competition for services currently provided by Sprint or T-Mobile in	Sievert at 45-50 Keys at 11-14

[37] *See, e.g.*, Wireline Approval Application at 19-20; Reply to Wireline Protests at 11-12; *see also* Prehearing Conference Statement at 8 (while "Joint Applicants do not object to consolidation for … filing purposes and for purposes of creating a joint record," consolidation "does not alter the nature of the underlying Applications" and should not "impede the timely consideration of each application on its own merits or, if appropriate, their consideration on different schedules").

[38] See Administrative Law Judge's Ruling Consolidating Applications, dated September 11, 2018.

[39] *See* Amended Assigned Commissioner's Scoping Memo and Ruling, dated October 4, 2018 ("Amended Scoping Memo") at 2-3 (identifying 15 topics).

	any metropolitan area or other geographically distinct market?	Israel at 38-40 Bresnahan at 4-20
2	What new services, if any, that are not currently provided by T-Mobile or Sprint, are contemplated to be provided by the merged entity? How would the merger impact competition for such services in any metropolitan area or other geographically distinct market?	Sievert at 30-40 Ray at 30-42 Israel at 33-40
3	What are the relevant markets to consider?	Sievert at 45-50 Israel at 42-49 Bresnahan at 4-20
4	Would the merger give the merged company monopsony power or increase the tendency to exercise monopsony power, including market power over equipment suppliers?	Intervenors have not shown monopsony power
5	What merger-specific and verifiable efficiencies would be realized by the merger?	Sievert at 46 Ray at 4, 7-8, 24-25, 35-38 Israel 6-8, 11-28 Bresnahan at 24-28
6	How would the merger affect innovation?	Sievert at 39-40 Ray 5-12, 35, 39
7	How would the merger affect the market for special access services, including backhaul services?	Sievert at 7 Sywenki at 13-14
8	How would the merger affect the ability of independent competitive wireless carriers to obtain backhaul services?	Sievert at 7 Sywenki at 13-14
9	Would the merger increase the market power of the incumbent local exchange carriers and their wireless affiliates?	Israel at 6-49 Sievert at 46
10	How would the merger impact the quality of, and access to, service to California consumers in metropolitan areas, rural areas, or other geographically distinct markets? What services would be affected?	Sievert at 20-50 Ray at 30-46 Keys at 6-14 Israel at 36-42, 50-53 Bresnahan at 24-28
11	How would the merger impact the LifeLine program?	Sievert at 30 Sylla at 3-5
12	Which California utilities would operate the merged properties in the state?	Wireline Approval Application at 14-16 (Uncontested)
13	Would the merger preserve the jurisdiction of the Commission to effectively regulate those utilities and their operations in California?	Wireline Approval Application at 16 (Uncontested)
14	Would the benefits of the merger likely exceed any detrimental effects?	Sievert at 20-50 Ray at 30-52 Keys at 6-14 Israel at 5-53 Bresnahan at 5-17

15	Should the Commission impose conditions or mitigation measures to prevent significant adverse consequences and, if so, what should those conditions or measures be?	Israel at 48-53 Dodd at 6-9

In addition, the Amended Scoping Ruling identified various factual issues including but not limited to those identified below. The following chart also identifies where those issues have been addressed.

	Factors Identified Amended Scoping Ruling	**Joint Applicant Witness**
1	Innovation	Sievert at 34-35 Ray 6-13, 36, 39-43
2	Service Quality	Sievert at 16-34 Ray 5-21, 30-42
3	Customer Satisfaction	Sievert at 16-34 Ray 30-42
4	Pricing Policies	Sievert at 23-26
5	Pre-paid services	Sievert at 21-22 Keys at 6-14
6	Wholesale Markets	Sievert at 44-45 Keys at 11-14
7	Roll-out of 5G Services (particularly in rural markets)	Sievert at 17-23, 26-28 Ray 5-30, 37-42
8	System Integration	Sievert at 12-13 Ray at 22-25, 42-46 Keys at 15-16
9	Device Compatibility	Ray at 42-46 Keys at 14-15
10	Customer Migration	Ray at 22-25, 42-46 Keys at 15-16
11	Net Neutrality	Intervenors have not raised any issues or concerns regarding net neutrality
12	Customer Privacy	Brye at 3-9 Dodd at 3-9
13	Mandatory Arbitration Clauses	Sylla at 16-18