

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Broadband, Video and Market Branch**

**RESOLUTION T-17722
February 11, 2021**

RESOLUTION

RESOLUTION T-17722 – T-Mobile Citation Program per Ordering Paragraph 39 of Decision 20-04-008.

SUMMARY

This Resolution approves a Citation Program under the administration of California Public Utilities Commission (Commission) Staff (Staff) to assure T-Mobile USA, Inc.'s (T-Mobile's) compliance with the requirements contained within the forty-four Ordering Paragraphs of Decision (D.)20-04-008 (Decision).¹ This Decision approved, subject to conditions, Applications 18-07-011 and 18-07-012, submitted jointly by Sprint Communications Company L.P. and T-Mobile USA, Inc. for approval of the transfer of control of Sprint Communications Company L.P. This Resolution establishes fines for T-Mobile in the event that it violates the requirements of D.20-04-008.

The Citation Program will apply only to T-Mobile. Staff will be delegated the authority to draft and issue citations and levy fines for specific violations as set forth in Appendix A. Nothing in this Resolution diminishes, alters, or reduces the Commission's existing authority to enforce the provisions in D.20-04-008.

In November 2020, the Commission adopted Resolution M-4846,² which establishes the Commission Enforcement and Penalty Assessment Policy. This Policy establishes guiding principles on enforcement approaches, actions, settlements and setting penalties to advance the goals of consistent, firm, meaningful, and timely enforcement

¹ Commission Decision 20-04-008 Granting the Application and Approving Wireless Transfer Subject to Conditions, in the Matter of the Joint Application of Sprint Communications Company, L.P. (U5112) 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 Sections 854(a). Applications 18-07-011 and 18-07-012. Voted April 16, 2020 and issued April 27, 2020.

² <https://www.cpuc.ca.gov/general.aspx?id=6442465502>

that is transparent to regulated entities and the residents of California, while adhering to due process and other legal obligations. This Enforcement Policy is the latest effort in the Commission's long-standing history of enforcing statutes, rules, orders, and other regulations applicable to regulated entities for the betterment of the residents of California.

Over the last several years, the Commission has used its authority to establish Citation Programs in numerous areas, including: gas safety; household good movers; charter party carriers; passenger stage corporations; maintenance and operation of power plants; unauthorized charges by telecommunications providers; and compliance with Resource Adequacy and Renewables Portfolio Standard requirements. This Resolution is consistent with other approved Citation Programs.

Nothing in this Resolution affects the Commission's existing Constitutional and statutory authority to pursue enforcement actions for non-compliance by public utilities with any Commission order, decision, rule, direction, or requirement.

BACKGROUND

On April 16, 2020, the Commission approved D. 20-04-008, approving the merger of two of California's largest wireless services providers, and two of only four national facilities-based wireless carriers. The Commission conducted an exhaustive review of the application per Public Utilities (PU) Code Section 854, which requires that the merger of public utilities be approved by the Commission.³

Subsections (b) and (c) of Section 854 direct that Commission approval is dependent on finding that the merger will result in public benefit, and that any harms to consumers, competition, and the public will be mitigated.⁴ To that end, the Decision includes a host of conditions within its forty-four Ordering Paragraphs. This wide array of obligations contained in the Ordering Paragraphs is included here as Appendix B.

T-Mobile's adherence to the Decision's conditions will assure that the merger transaction will, in fact, generate public benefit for California. These conditions cover a host of issues, including but not limited to: timely and widespread 5G deployment;

³ Section 854 (a) states that "No person or corporation, whether or not organized under the laws of this state, shall merge, acquire, or control either directly or indirectly any public utility organized and doing business in this state without first securing authorization to do so from the commission."

⁴ Sections 854 (b) and (c) set the requirements and burden of proof necessary for merger approval of large utilities by the Commission.

programs for low-income consumers; job creation and retention; public safety; diversity spending and representation; and the oversight and reporting necessary to demonstrate full compliance with the Decision.

Ordering Paragraph 39 of the Decision orders the Commission to institute a Citation Program that will impose fines on T-Mobile for violations of the Ordering Paragraph conditions.⁵ This Resolution establishes that Citation Program, which is attached herein as Appendix A.

DISCUSSION

Public utilities are subject to enforcement action and fines pursuant to PU Code Sections 2102-2015, 2017, 2108, and 2114. PU Code Section 702 mandates that “Every public utility shall obey and comply with every order, decision, direction, or rule made or prescribed by the Commission in the matters specified in this part, or any other matter in anyway relating to or affecting its business as a public utility, and shall do everything necessary or proper to secure compliance therewith by all of its officers, agents, and employees.”

California law, including PU Code Section 7, authorizes the Commission to delegate certain powers to its staff, including the investigation of facts preliminary to agency action, and the assessment of specific fines for certain violations. A Citation Program administered by Staff for specified violations will allow prompt action by the Commission.

The goal of the Citation Program is to ensure T-Mobile’s complete and timely compliance with all conditions in the Decision, thus realizing the merger’s intended benefits for California. The issuance of a citation for a specified violation is not mandatory. In the alternative, the Commission may initiate any authorized formal proceeding or informal action or pursue any other remedy authorized by the California Constitution, the Public Utilities Code, other state or federal statutes, court decisions or decrees, or otherwise by law or in equity. Finally, the Commission’s enforcement of this Resolution by informal proceedings, formal proceedings, or otherwise, does not bar or affect the remedies otherwise available to other persons or government agencies.

⁵ D.20-04-008 Ordering Paragraph 39 states: “The CPUC shall develop a citation program that can be utilized to impose penalties on New T-Mobile for violations of the terms of this decision.”

COMMENTS

Public Utilities Code Section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Accordingly, this draft resolution was mailed to parties for comments, and will be placed on the Commission's agenda no later than 30 days from today.

T-Mobile requested an extension of fifteen days to submit comments. All parties in the merger approval proceeding⁶ were notified and agreed to this extension. The Communications Division Acting Director granted the extension. Opening comments were timely submitted on January 19, 2021 by T-Mobile and The Utility Reform Network (TURN). Reply comments were timely submitted on January 26, 2021 by T-Mobile. No other reply comments were submitted.

T-Mobile's opening comments include several requests for modification to the Resolution, including: capping the fines at \$4 million per violation; including language to emphasize that these fines are not mandatory; making progressive fine structures more lenient; and including additional due process language. We have considered T-Mobile's arguments, and, where appropriate we have incorporated portions of T-Mobile's proposed changes. As T-Mobile requested, we clarify that T-Mobile may be cited for an amount up to the maximum stated penalty (per day) for each violation.

In its opening comments, TURN stated its support for the overall framework and proposal of the Citation Program as it is set out in the Draft Resolution, and noted that "the Citation Program is a critical part of the Commission's efforts to monitor and enforce the provisions of D.20-04-008 that ensure that the merger is in the public interest."⁷ Additionally, TURN proposed two changes to the Resolution: one that would describe the Compliance Monitor's role in the context of this Citation Program; and one that would provide for immediate notification as well as biannual reporting to stakeholders on activities related to the Citation Program, such as citation issuances, T-Mobile's response, appeals and other activities. We agree, in part, with TURN's request for notification, and have therefore added Section 2.11 to the Citation Program (Attachment A) to implement this.

⁶ The applications A.18-07-011 and A18-07-012 were combined into a single proceeding, resulting in the merger approval Decision (D.20-04-008).

⁷ TURN Opening Comments to Draft Resolution T-17722, at p.1.

T-Mobile timely submitted reply comments in response to TURN's opening comments. T-Mobile does not believe that it is appropriate to use the Citation Program Rules to describe the role of the Commission's Compliance Monitor outside the scope of the Citation Program. The Commission agrees with T-Mobile that the Compliance Monitor's roles and responsibilities are outside the scope of this Resolution, which is meant specifically to establish a Citation Program to encourage full compliance with the merger approval's conditions by attaching penalties to specific violations.

FINDINGS OF FACT:

1. Sprint Communications Company L.P. and T-Mobile USA, Inc. filed Applications 18-07-011 and 18-07-012 asking the Commission to approve the merger of these wireless services providers.
2. On April 27, 2020, the Commission issued Decision 20-04-008, which approved the merger conditioned upon compliance with its Ordering Paragraphs.
3. Public utilities are subject to Commission enforcement action and fines pursuant to Public Utilities Code Sections 2102-2105, 2107, 2108 and 2114.
4. The Commission has the power to act as an enforcement agency and to ensure that fines are promptly prosecuted and collected pursuant to Public Utilities Code Section 2101.
5. Public Utilities Code Section 702 mandates that every public utility obey and comply with every Commission order, decision, direction, or rule.
6. Under California law, including Public Utilities Code Section 7, the Commission may delegate authority to its Staff to perform certain functions.
7. Decision 20-04-008 orders the Commission to create a Citation Program that can be utilized to impose fines on New T-Mobile for violations of the terms of this decision.
8. Decision 20-04-008 orders the Commission to hire an independent monitor at T-Mobile's expense to review T-Mobile's compliance with all its commitments therein.
9. Staff has developed a Citation Program, attached to this Resolution as Appendix A.

10. The Scheduled Fines set forth in Appendix A are reasonable and will encourage T-Mobile's complete and timely fulfillment of its obligations per Decision 20-08-004
11. On December 11, 2020, the Commission emailed a draft of this Resolution to the service list for Applications 18-07-011 and 18-07-012 for public comment.

THEREFORE, IT IS ORDERED that:

1. The citation program and the Scheduled Fines for the Specified Violations as described in Appendix A, are hereby adopted.
2. Authority is delegated to Commission Staff to issue citations and levy Scheduled Fines for the Specified Violations set forth in Appendix A to enforce compliance with the Ordering Paragraphs of Decision 20-04-008.
3. Resolution T-17722 is adopted.

This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on February 11, 2021, the following Commissioners voting favorable thereon:

/s/ RACHEL PETERSON

Rachel Peterson
Executive Director

MARYBEL BATJER
President
MARTHA GUZMAN ACEVES
CLIFFORD RECHTSCHAFFEN
GENEVIEVE SHIROMA
Commissioners

APPENDIX A

T-Mobile Merger Conditions Citation Program

1.0 Specified Violations and Scheduled Fines

1.1 “Specified Violation” means the failure to comply with the Ordering Paragraphs of Decision 20-04-008.

1.2 “Scheduled Fine” is the reasonable amount of monetary fine imposed on T-Mobile for a Specified Violation. The monetary amounts per violation are set forth below in this Appendix A. Fines may be imposed up to the amount of the Scheduled Fine.

1.3 Modification of Scheduled Fines. Scheduled Fines may be modified by Resolution.

2.0 Procedures for the Citation Program

2.1 Citations for Specified Violations. Prior to issuing a citation, T-Mobile will be given notice by Staff or the Compliance monitor by email, and will be given an opportunity to discuss the potential violation.

2.2 Issuance of Citations. After appropriate informal investigation and verification, Staff and the Compliance Monitor will determine that a Specified Violation defined in this Resolution has occurred. The Communications Division Director, or equivalent, as determined by the Executive Director, is authorized to issue a citation. The Specified Violations and the corresponding Scheduled Fine that may be levied are described later in this Appendix. Any data or information included in a citation that was provided confidentially by T-Mobile (or used in any appeal process), shall be governed by General Order 66-D.

2.3 Service of Citations. Citations shall be sent by Commission Staff by first class mail to the Respondent at the address of the agent for service of process with a copy via e-mail to the Respondent’s regulatory representative.

2.4 Content of Citations. Citations shall state the alleged violation, the evidence supporting the alleged violation, and the proposed Scheduled Fine. The citation shall summarize the evidence and Commission Staff shall make the evidence available for timely inspection upon request by the Respondent. Citations also shall include an explanation of how to file an appeal of the citation, including the explanation of a right to have a hearing, to have a representative present at the hearing, and to request a transcript. The proposed Scheduled Fine stated in the citation shall not

increase during the time periods specified herein for the Respondent to either accept the citation or appeal the citation.

2.5 Response to Citation. A Respondent may either: (1) accept the citation and the proposed Scheduled Fine; or (2) appeal the citation in accordance with Resolution ALJ-377.

2.6 Filing with Commission Staff. Unless otherwise specified, “notify Commission Staff,” “filing,” or “file” means to send an email to the address specified in the order or citation that requires the filing or notification.

2.7 Acceptance of Scheduled Fine. In the event the proposed Scheduled Fine is accepted, the Scheduled Fine indicated in the Citation will be final. The Respondent shall notify Commission Staff in writing and shall pay the Scheduled Fine in full as set forth below within (30) days of the date of the citation.

2.8 Appeal of Citation. In lieu of accepting the Scheduled Fine, a Respondent may appeal the citation and request a hearing. In the event of an appeal, any remedy available may be imposed, and the remedy shall not be mandated by or limited to the Scheduled Fine.

2.8.1. Notice of Appeal. To appeal a citation, the Respondent must file a written Notice of Appeal. The Notice of Appeal must state the grounds for appeal and be filed with Commission Staff within thirty (30) days of the date of the citation.

2.8.2. Referral to Administrative Law Judge. Upon receipt of a timely Notice of Appeal, Commission Staff shall promptly provide a copy of the Notice of Appeal to the Chief Administrative Law Judge. The Chief Administrative Law Judge shall promptly designate an Administrative Law Judge to hear the appeal and shall notify Respondent of the designation.

2.8.3 Time of Hearing. No less than ten (10) days after the Notice of Appeal is filed, the assigned Administrative Law Judge shall set the matter for hearing. The Administrative Law Judge, may, for good cause shown or upon agreement of the parties, grant a reasonable continuance of the hearing.

2.8.4 Location of Hearing. Appeals of citations shall be heard in the Commission’s San Francisco courtroom on regularly scheduled days.

2.8.5 Transcripts. The Respondent may order a transcript of the hearing, and shall pay the cost of the transcript in accordance with the Commission’s specified procedures.

2.8.6 Representation at Hearing. The Respondent may be represented at the hearing by an attorney or other representative, but any such representation shall be at the Respondent's expense.

2.8.7 Evidentiary Hearing. At an evidentiary hearing, Commission Staff and the Compliance Monitor bear the burden of proof and, accordingly, shall open and close. Staff and the Compliance Monitor shall present opening testimony, followed by T-Mobile's testimony, followed by Staff and the Compliance Monitor closing/rebuttal testimony. The Administrative Law Judge may, in his or her discretion to better ascertain the truth, alter the order of presentation. Formal rules of evidence do not necessarily apply, and all relevant and reliable evidence may be received at the discretion of the Administrative Law Judge.

2.8.8 Submission. Ordinarily, the matter shall be submitted at the close of the hearing. The Administrative Law Judge, upon a showing of good cause, may keep the record open for a reasonable period to permit a party to submit additional evidence or argument.

2.8.9 Decision. The Administrative Law Judge shall issue a draft Resolution resolving the appeal not later than sixty (60) days after the appeal is submitted in accordance with subsection 2.8.10 below, and the draft Resolution shall be placed on the first available agenda, consistent with the Commission's Rules of Practice and Procedure. Persons may file comments on the draft resolution pursuant to Rule 14.5 of the Commission's Rules of Practice and Procedure. A resolution approved by the Commission is subject to rehearing pursuant to Public Utilities Code Section 1731 and to judicial review pursuant to Public Utilities Code Section 1756.

2.8.10 Communications. From the date that a citation is issued up to and including the date when the final Resolution is issued, neither the Respondent nor Commission Staff and the Compliance Monitor, or any agent or other person on behalf of the Respondent or Commission Staff, may communicate regarding the appeal, orally or in writing, with a Commissioner, Commissioner's advisor, or Administrative Law Judge.

2.9 Payment of Scheduled Fines. Payment of Scheduled Fines shall be submitted to the Commission's Fiscal Office, 505 Van Ness Avenue, San Francisco, CA 94102, in the form of certified check, payable to the Public Utilities Commission for the credit of the State General Fund.

2.10 Default. If the Respondent: (a) notifies Commission Staff of acceptance of a Scheduled Fine and fails to pay the full amount of the Scheduled Fine within thirty (30)

days of the date of the written acceptance of the Scheduled Fine; or (b) fails to notify Commission Staff of acceptance of a Scheduled Fine or fails to file a written Notice of Appeal in the manner and time required, then the citation and proposed fine amount indicated in the citation shall become final and the Respondent is in default.⁸ Upon default, any unpaid balance of a Scheduled Fine shall accrue interest at the legal rate of interest for judgments, and Commission Staff and the Commission may take any action provided by law to recover unpaid fines and ensure compliance with applicable statutes and Commission orders, decisions, rules, directions, demands or requirements.

2.11 Notice. Commission Staff shall serve notice to the service list to A.18-07-011/-012 of the following events under the Citation Program: issuance of a citation (Section 2.2), the Company's response to the citation (Section 2.5), acceptance of a scheduled fine (Section 2.7), any written notice of appeal of the citation (Section 2.8.1), notice of a hearing (Section 2.8.3), and the final decision by the Commission (Section 2.8.9). The documents shall be redacted to protect confidential and proprietary information properly identified by the Company and any recipient shall have the right to request access to the confidential information directly from the Company.

2.12 Reporting. Commission Staff shall regularly report to the Commission summarizing actions taken pursuant to this Resolution. The report shall include a summary of the citations and fines imposed, fines paid, and the disposition of any appeals.

⁸ If T-Mobile files a timely notice of appeal, a fine is not due unless an Administrative Law Judge (ALJ) finds a violation existed, and the Commission agrees with the findings of the ALJ. Interest does not accrue on a fine if a timely notice of appeal is filed.

SPECIFIED VIOLATIONS AND SCHEDULED FINES

SPECIFIED VIOLATION	SCHEDULED FINE
<p>Failure to simultaneously provide to California Public Utilities Commission any California specific data in updates, documents or reports it provides to the Federal Communication Commission (FCC) or Department of Justice (DOJ) regarding implementation of the conditions within the FCC Order and the Proposed Final Judgment simultaneously with the provision of such material to the FCC or DOJ, as identified in Ordering Paragraph 2.</p>	<p>\$20,000 per day that California specific data in updates, documents or reports provided to the FCC or DOJ are not submitted to the Commission. Each item that is not concurrently submitted per Ordering Paragraph 2 shall constitute a single violation. The total fine issued through this Citation Program for a single violation shall not exceed \$10,000,000.</p>
<p>Failure to simultaneously provide to Communications Division staff all updates, data, documents or reports it provides to the California Emerging Technology Fund (CETF) or other party to whom such information is provided pursuant to the Memorandum of Understanding Between CETF and T-Mobile USA Inc. (CETF MOU), as identified in Ordering Paragraph 2.</p>	<p>\$20,000 per day that any update, data, document or report provided pursuant to the CETF MOU is not submitted to the Commission. Each item shall constitute a single violation. The total fine issued through this Citation Program for a single violation shall not exceed \$10,000,000.</p>
<p>Failure to achieve any 5G service availability milestone, as identified in Ordering Paragraph 4 of Decision 20-04-008. Milestones are defined as percentages of California’s total population and percentages of California’s rural population (using the U.S. Census definition of “rural”).</p>	<p>This fine will vary according to T-Mobile's progress toward full compliance: 0% – 19.9% of target achieved: \$100,000 per day; 20% – 39.9% of target achieved: \$90,000 per day; 40% – 59.9% of target achieved: \$80,000 per day; 60% – 79.9% of target achieved: 70,000 per day; 80% – 99.9% of target achieved: \$60,000 per day. Failure to achieve any specific metric in Ordering Paragraph 4 shall constitute a violation. Thus, failure to achieve a service level</p>

	percentage of availability for either total population or rural population would each be one violation. The total fine issued through this Citation Program for a single violation shall not exceed \$50,000,000.
Failure to achieve any in-home broadband service availability milestone, as identified in Ordering Paragraph 5 of Decision 20-04-008. Milestones are defined as the number of total households and the number of rural households with in-home broadband service available. Failure to make available in-home broadband service with no contract, no equipment charges, and no installation charges will be considered a violation.	This fine will vary according to T-Mobile's progress toward full compliance: 0% – 19.9% of target achieved: \$100,000 per day; 20% – 39.9% of target achieved: \$90,000 per day; 40% – 59.9% of target achieved: \$80,000 per day; 60% – 79.9% of target achieved: \$70,000 per day; 80% – 99.9% of target achieved: \$60,000 per day. Failure to achieve any specific metric in Ordering Paragraph 5 shall constitute a violation. Thus, failure to achieve a service level percentage for either total households or rural households would each be one violation. The total fine issued through this Citation Program for a single violation shall not exceed \$25,000,000.
Failure to maintain LTE broadband speeds and coverage areas in California at no less than the speeds and coverage areas reported to the Federal Communications Commission on Form 477 by T-Mobile and Sprint for their respective LTE services as of December 31, 2019, as identified in Ordering Paragraph 6.	\$100,000 per day. The total fine issued through this Citation Program for a single violation shall not exceed \$25,000,000.
Failure to deploy 5G network service in 10 unserved or underserved California areas, as prioritized by T-Mobile after consultation with Staff, CETF and the Rural Regional Consortia, as directed by Ordering Paragraph 7. Failure to provide 10 unserved or underserved	\$20,000 per day. Each unserved or underserved area prioritized for 5G deployment which does not have 5G service universally available with that area shall constitute a single violation. The total fine issued through this Citation Program for a single violation (prioritized area) shall not exceed \$25,000,000.

California areas prioritized for 5G network service shall constitute one violation missing priority.	
Failure to deploy permanent 5G wireless service at 10 County Fairgrounds identified for priority in rural counties by year end 2026, or failure to deploy permanent 5G wireless service to 3 County Fairgrounds identified for priority in rural counties by year end 2024, as directed by Ordering Paragraph 9. 5G deployment must meet the requirements stipulated in Ordering Paragraph 10. Failure to provide permanent 5G wireless service at 10 County Fairgrounds in rural counties shall be considered one violation for each missing County Fairground.	\$50,000 per day. Each County Fairground identified for priority 5G deployment which does not have 5G service meeting the requirements of Ordering Paragraphs 9 and 10 shall constitute a single violation. The total fine issued through this Citation Program for a single violation (prioritized County Fairground) shall not exceed \$25,000,000.
Failure to participate (through Assurance or any other of its subsidiaries) in the California LifeLine Program on terms and conditions that are comparable or better than those offered by Assurance as of April 1, 2020, as directed by Ordering Paragraph 13.	\$50,000 per day of non-participation in the California LifeLine Program. The total fine issued through this Citation Program shall not exceed \$50,000,000.
Failure to add at least 300,000 new LifeLine customers in California by year-end 2026. The additional LifeLine enrollees must meet the criteria listed in Ordering Paragraph 14.	This fine will vary according to T-Mobile's progress toward full compliance: 0% – 19.9% of target achieved: \$100,000 per day; 20% – 39.9% of target achieved: \$90,000 per day; 40% – 59.9% of target achieved: \$80,000 per day; 60% – 79.9% of target achieved: \$70,000 per day; 80% – 99.9% of target achieved: \$60,000 per day. Failure to achieve the target number of new LifeLine customers specified in Ordering Paragraph 14 shall constitute a single violation.

	The total fine issued through this Citation Program shall not exceed \$25,000,000.
Failure to migrate all former Assurance LifeLine customers with incompatible handsets to the New T-Mobile network in accordance with Ordering Paragraph 19.	\$50,000 per day. Failure to migrate all LifeLine customers to the New T-Mobile network shall constitute a violation. The total fine issued through this Citation Program shall not exceed \$25,000,000.
Failure to continue operation of the California LifeLine Pilot Program for as long as the Commission continues to add and maintain Project Members within the Pilot Program, under the same terms and conditions approved in Decision 19-04-021, meeting all criteria within Ordering Paragraph 21.	\$50,000 per day the Pilot Program is not operated in accordance with Ordering Paragraph 21 and Decision 19-04-021. The total fine issued through this Citation Program shall not exceed \$25,000,000.
Failure to submit an information-only filing to the Communications Division's Director to notice any changes to service plans available in the pilot program within thirty (30) days of the service plan change, as directed by Ordering Paragraph 23.	\$20,000 per day beginning on the 31 st day after the LifeLine service plan change. Any failure to notify the Commission of any changes to service plans available in the pilot program within 30 days shall constitute a single violation. The total fine issued through this Citation Program shall not exceed \$10,000,000.
Failure to produce a net increase of 1,000 jobs in California as per Ordering Paragraph 25.	This fine will vary according to T-Mobile's progress toward full compliance: 0% – 19.9% of target achieved: \$100,000 per day; 20% – 39.9% of target achieved: \$90,000 per day; 40% – 59.9% of target achieved: \$80,000 per day; 60% – 79.9% of target achieved: \$70,000 per day; 80% – 99.9% of target achieved: \$60,000 per day. Failure to produce at least 1,000 jobs shall constitute a single violation. The total fine issued through this Citation Program shall not exceed \$50,000,000.

<p>Failure to reimburse the Commission for the reasonable costs of CalSPEED drive tests, and for analysis and mapping of the test results. Testing shall proceed according to all requirements of Ordering Paragraph 28. T-Mobile's costs shall be determined by allocating pro-rata the costs of CalSPEED testing, analysis and mapping that the New T-Mobile and DISH networks bear to the total number of networks tested, plus the reasonable cost of mobile devices and service subscriptions deemed necessary by Staff. T-Mobile shall reimburse the Commission for such costs within 60 days of receiving notice of such costs from Staff.</p>	<p>\$100,000 per day for each day beginning on the 61st day after receiving notice of costs from Staff. The total fine issued through this Citation Program for a single violation shall not exceed \$25,000,000.</p>
<p>Failure to continue to have a Diversity and Inclusion Office led by a Vice President (or Acting Director) with budgetary and decision-making authority to ensure that diversity is integrated into all aspects of the company and is among the company's core values, as directed by Ordering Paragraph 33.</p>	<p>\$50,000 per day in which T-Mobile has no Diversity and Inclusion Office, beginning on February 1, 2021. The total fine issued through this Citation Program shall not exceed \$25,000,000.</p>
<p>Failure to submit Baseline Report by January 31, 2021. The Baseline Report must contain each data point listed in Ordering Paragraph 40.</p>	<p>\$20,000 per day beginning February 1, 2021 without submission of Baseline Report. \$20,000 per day beginning February 1, 2021 for each data point omitted from the Baseline Report. Failure to submit the Baseline Report shall constitute a single violation. Additionally, failure to provide any required data point shall constitute a single violation. The total fine issued through this Citation Program shall not exceed \$50,000,000.</p>

Failure to submit Annual Report by January 31 of each year beginning with 2022 until 2027. The Annual Report must contain each data point listed in Ordering Paragraph 41.	\$50,000 per day beginning February 1, 2021 without submission of Annual Report. \$20,000 per day beginning February 1, 2021 for each data point omitted from the Annual Report. Failure to submit the Annual Report shall constitute a single violation. Additionally, failure to provide any required data point shall constitute a single violation. The total fine issued through this Citation Program shall not exceed \$50,000,000.
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(End of Appendix A)

APPENDIX B

Conditions for Approval of the T-Mobile/Sprint Merger Relevant Ordering Paragraphs of Decision 20-04-008

IT IS ORDERED that:

1. 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) is approved, subject to the conditions in Ordering Paragraphs 2-41. Pursuant to California Public Utilities Code Section 854, the Commission approves the transfer of control of the Sprint Wireless Entities to T-Mobile, subject to the conditions in Ordering Paragraphs 2-41.

A. FEDERAL and OTHER COMMITMENTS

2. New T-Mobile shall provide to California Public Utilities Commission any California specific data in updates documents or reports it provides to the Federal Communication Commission (FCC) or Department of Justice (DOJ) regarding implementation of the conditions within the FCC Order and the Proposed Final Judgment simultaneously with the provision of such material to the FCC or DOJ.

3. New T-Mobile shall simultaneously provide to Communications Division staff (Staff) all updates, data, documents or reports it provides to the California Emerging Technology Fund (CETF) or other party to whom such information is provided pursuant to the Memorandum of Understanding Between CETF and T-Mobile USA Inc. (CETF MOU).

B. 5G and LTE NETWORKS

4. New T-Mobile shall achieve the following 5G network milestones:

- a. By year end 2023, New T-Mobile shall provide 5G service to at least the percentage of California population indicated below:
 - i. 91.0% with access to service with download speeds of at least 50 Mbps;
 - ii. 86.0% with access to service with download speeds of at least 100 Mbps;
 - iii. 81.0% of rural population with access to service with download speeds of at least 50 Mbps; and

- iv. 79.0% of rural population with access to service with download speeds of at least 100 Mbps.
 - b. By year end 2026,⁹ New T-Mobile shall provide access to service with at least 300 Mbps download speeds to 93% of the California population). By year end 2026, New T-Mobile shall provide:
 - i. 99.0% of California population with access to service with download speeds of at least 100 Mbps;
 - ii. 94.0% of California rural population with access to service with download speeds of at least 50 Mbps; and
 - iii. 85.0% of California rural population with access to service with download speeds of at least 100 Mbps.
- 5. Where there is sufficient capacity, New T-Mobile shall offer in-home broadband service wherever 5G service is available. Within 3 years of the close of the merger, T-Mobile shall have in-home broadband service available to at least 912,000 California households, of which at least 58,000 shall be rural. Within 6 years of the close of the merger, T-Mobile shall have in-home broadband service available to at least 2.3 million California households, of which at least 123,000 shall be rural. There will be an affordable plan offering that is priced less than other available in-home broadband service, with no contract, no equipment charges, no installation charges, and no surprises.
- 6. The legacy Sprint and T-Mobile customer experience shall not be degraded during the customer migration period (2020-2023) or the 5G build-out period (2020-2026). During such time New T-Mobile shall maintain LTE broadband speeds and coverage areas in California at no less than the speeds and coverage areas reported to the Federal Communications Commission on Form 477 by T-Mobile and Sprint for their respective LTE services as of December 31, 2019.
- 7. In California, New T-Mobile shall prioritize rolling out its planned 5G network in 10 unserved or underserved California areas. The 10 unserved or underserved areas for prioritization shall be selected by New T-Mobile after consultation with Staff, California Emerging Technology Fund (CETF) and the Rural Regional Consortia. New T-Mobile shall meet jointly with Staff, the Rural Regional Consortia and CETF within 180 days of the close of the Transaction to:

⁹ D.20-04-008 originally required these 300 Mbps deployment goals to be completed by year end 2024. After T-Mobile's Request for Modification was submitted June 23, 2020, Ordering Paragraph 4.b. was modified to require these specific goals to be met by year end 2026. This modification was ordered in D.20-11-025, issued on November 20, 2020.

- a. Provide an overview of planned 5G network improvements and capital expenditures in California; and b. Obtain input from and consult with Staff, CETF and the Rural Regional Consortia to identify the 10 unserved/underserved areas that New T-Mobile shall prioritize as specified above.
- b. Obtain input from and consult with Staff, CETF and the Rural Regional Consortia to identify the 10 unserved/underserved areas that New T-Mobile shall prioritize as specified above.

The California Advanced Services Fund shall not reimburse the Rural Regional Consortia for any expenses relating to meeting and consulting with New T-Mobile, CETF or Staff in connection with this condition.

C. NETWORK RELIABILITY AND EMERGENCY PREPAREDNESS

8. New T-Mobile shall comply with all backup power requirements imposed in CPUC in Rulemaking 18-03-011, or any subsequent proceeding, on the timetable and subject to the other requirements developed in that proceeding.

D. PERMANENT OPERATIONS AT FAIRGROUNDS

9. Within 5 years of the close of the Transaction, New T-Mobile shall deploy permanent 5G wireless service at 10 County Fairgrounds in rural counties, at least 3 of which shall be installed in the first 3 years.

10. The wireless networks shall provide robust connectivity for Fairground users and administrators adequate to support the capacity and speed needed during an emergency by a response and evacuation center.

11. Priority consideration shall be given to the rural Fairgrounds most frequently used in the last decade to stage wildfire, flooding, and other emergency responses, and support recovery activities. Priority consideration also shall be given to rural Fairgrounds for which the County Fair Board (in consultation with California Office of Emergency Services (OES), County Board of Supervisors and other local stakeholders) has developed a plan for digital inclusion and other economic development activities when the site is not being used for emergency response and recovery.

12. The 10 Fairgrounds shall be proposed by New T-Mobile after consultation with CETF, the Rural Regional Consortia, OES and Staff. The final selection of 10 Fairgrounds must be approved by Staff.

E. CALIFORNIA LIFELINE

13. New T-Mobile (through Assurance or any other of its subsidiaries), for as long as New T-Mobile or any of its subsidiaries operate in California and offer service plans to consumers, shall participate in the California LifeLine Program on terms and conditions that are comparable or better than those currently offered by Assurance and be subject to the Commission LifeLine Program rules. New T-Mobile can accomplish this objective by utilizing the existing Virgin Mobile USA, L.P. (Virgin) model and/or any future models authorized by the Commission.

14. New T-Mobile shall add at least 300,000 new LifeLine customers in California over the next five years. These customers will be in addition to those already participating in LifeLine.

- a. New T-Mobile shall enroll LifeLine customers that were not enrolled in the California LifeLine program in the previous month.
- b. New T-Mobile shall train and monitor employees adequately to ensure they only enroll new LifeLine customers who are eligible.
- c. New T-Mobile shall offer LifeLine sign-ups at all New T-Mobile (and subsidiaries) physical stores.

15. New T-Mobile shall submit a Tier 2 Advice Letter Implementation Plan to the Communications Division within 60 days of the effective date of the Commission Decision approving the merger. This Implementation Plan Advice Letter shall include components including by way of example but not limitation the following:

- a. network transition.
- b. handset distribution.
- c. consumer education.
- d. applicable changes in consumers' accounts.
- f. applicable activities related to the California LifeLine Administrator.
- g. draft content for the consumer education materials.

16. New T-Mobile (and its subsidiaries) shall conduct outreach to inform consumers about the California LifeLine Program via the following methods, at a minimum:

- a. Sales scripts (for phone, online, and in-store sales);
- b. Text messages;
- c. Blurb on post-paid phone bills; and
- d. Web sites

17. New T-Mobile shall submit to CPUC for review and approval all California LifeLine related outreach materials.

18. New T-Mobile shall provide a sample of customer bills (to show the required outreach message), submit screenshots of Web pages that include the required content, include an approved CPUC number on its text message distribution list, and permit the CPUC to send staff to audit compliance into California stores and call centers at any time during operating hours.

19. All Assurance LifeLine customers with incompatible handsets shall be migrated on the same timeframe as the non-LifeLine legacy Sprint customers to the New T-Mobile network. New T-Mobile shall distribute handsets that are compatible with the New T-Mobile network, and comparable to the consumer's existing handset such that the consumer does not experience a loss in service, to all active California LifeLine participants receiving cell phone services from Virgin, through Assurance, whose handsets belong to either of the following categories, at the time of migration:

- a. The consumer's handset was previously provided by Virgin but is incompatible with the New T-Mobile network;
- b. the consumer's "Bring Your Own Device" handset is incompatible with the New T-Mobile network

20. With respect to the Pilot Programs approved in Decision 19-04-021: New T-Mobile shall make a good faith effort to secure any necessary approvals from the Federal Communications Commission and Department of Justice to maintain the Boost customer base currently receiving service under the California LifeLine Pilot Program and avoid their transfer to DISH under the terms of the divestiture.

21. If New T-Mobile receives approval to maintain the Boost customer base currently receiving service under the California LifeLine Pilot Program, New T-Mobile shall:

- a. Within 60 days of the effective date of the Commission Decision approving the merger, submit an Tier 2 Advice Letter to the Communication Division Commission requesting transfer of the California LifeLine Pilot Program from Sprint Spectrum to New T-Mobile or a different T-Mobile brand.
- b. Assume operation of the California LifeLine Pilot Program (whether with the MetroPCS brand or a different New T-Mobile brand) for as long as the Commission CPUC continues to add and maintain Project Members within the Pilot Program, under the same terms and conditions approved in Decision 19-04-021.
- c. Work with the California LifeLine team and Boost's existing Pilot team to transition the California LifeLine.
- d. Provide new handsets to all existing and

active pilot participants whose current handsets will not be compatible with New T-Mobile's network, at no cost to the consumer or the California LifeLine Program. e. Seek approval from the CPUC of the handset models that it would like to provide to iFoster pilot participants, to ensure that the new handsets are comparable to the pilot participants' existing handsets.

22. If New T-Mobile fails to receive approval to maintain the Boost customer base currently receiving service under the California LifeLine Pilot Program, New T-Mobile shall:

- a. Within 60 days of the effective date of the Commission Decision, if federal approval was not secured, submit a Tier 2 Advice Letter to the Communications Division requesting a new LifeLine Pilot Program under New T-Mobile or a different T-Mobile brand.
- b. Upon approval from the Communications Division, operate the new California LifeLine Pilot Program (whether with the MetroPCS brand or a different New T-Mobile brand) for as long as the Commission continues to add and maintain Project Members within the new Pilot Program, under the same terms and conditions approved in Decision 19-04-021, except where both the Commission and New T-Mobile agree to amendments.
- c. Work with the California LifeLine team and Boost's existing Pilot team to develop the new Pilot Program as soon as a Resolution is adopted, maintaining continuity with the processes and procedures developed by the existing pilots, except where both the Commission and New T-Mobile agree to amendments.
- d. Work with the California LifeLine team and Boost's existing Pilot team to develop the new Pilot Program as soon as a Resolution is adopted, maintaining continuity with the processes and procedures developed by the existing pilots, except where both the Commission and New T-Mobile agree to amendments.
- e. Provide new handsets to any existing and active pilot participants whose current handsets will not be compatible with New T-Mobile's network and who choose to switch to New T-Mobile's Pilot, at no cost to the participant or the California LifeLine Program.
- f. Seek approval from the Commission of the handset models that it will provide to iFoster pilot participants, to ensure that the new handsets are comparable to the pilot participants' existing handsets.
- g. Conduct marketing and outreach on behalf of New T-Mobile's Pilot Program at T-Mobile's expense and using methods approved by Commission staff.

23. New T-Mobile shall submit an information-only filing to the Communications Division's Director of any changes to service plans available in the pilot program. (see examples of California LifeLine related information-only filings at <https://www.cpuc.ca.gov/General.aspx?id=1100>)

24. Within 90 days of the effective date of the Commission Decision approving the merger, Metro PCS (or whichever T-Mobile brand will replace Boost in the pilot program) shall provide a sample of customer bills (to show the required message), submit screenshots of Web pages that include the required content, include an approved CPUC number on its text message distribution list, and permit the CPUC to send staff to audit compliance into California stores and call centers at any time during operating hours.

F. JOB CREATION

25. New T-Mobile shall have a net increase in jobs in California, such that the number of full time and full-time equivalent New T-Mobile employees in the State of California at three years after the close of the transaction shall be at least 1,000 greater than the total number of full-time and full-time equivalent employees of Sprint, Assurance Wireless and T-Mobile in the State of California as of the date of the Transaction closing.

26. New T-Mobile shall hire approximately 1,000 new employees (or more) at its planned Kingsburg customer experience center in Fresno County and shall focus on new hires for the center coming from the region in consultation with local workforce development boards, economic development organizations, and nearby community colleges, such as West Hills Community College.

G. EDUCATIONAL BROADBAND SPECTRUM (EBS)

27. Within 90 days of the effective date of the Commission Decision approving the merger, New T-Mobile shall establish a single point of contact for California tribes and educational entities interested in gaining access to New T-Mobile spectrum holdings and/or leases. This contact will be accessible to California tribes and educational entities that would like to acquire EBS from New T-Mobile, partner with New T-Mobile to utilize EBS, or discuss opportunities for cooperation with New T-Mobile.

H. CALSPEED TESTING

28. Annually or at such other frequency as Staff determines appropriate, CPUC may perform CalSPEED drive tests of the New T-Mobile and DISH networks from 2020 through 2026. New T-Mobile shall reimburse the CPUC for the reasonable costs of such drive tests, and for analysis and mapping of the test results.

- a. Testing shall be performed at 4000 locations (including those in urban, rural and tribal areas), or such other number of test locations that Staff deems appropriate. Staff shall consult with New T-Mobile on the distribution of these test locations.
- b. Staff shall review its test code/methodology with New T-Mobile prior to commencing its testing.
- c. Staff shall determine New T-Mobile's costs by allocating pro-rata the costs of CalSPEED testing, analysis and mapping that the New T-Mobile and DISH networks bear to the total number of networks tested, plus the reasonable cost of mobile devices and service subscriptions deemed necessary by Staff.
- d. New T-Mobile shall reimburse the Commission for such costs within 60 days of receiving notice of such costs from Staff.
- e. Notwithstanding anything in this OP, New T-Mobile's obligation to pay for all costs in Section H. shall not exceed \$1 million annually.

29. CPUC shall provide New T-Mobile with statewide maps of the test point results and interpolations of up/down speeds and latency and perform geographic coverage analysis of areas and population with available download speeds at or above 50 Mbps, 100 Mbps and 300Mbps for both urban and rural areas.

30. Unless otherwise agreed to by Staff, or by the Commission as a result of a challenge as provided in subparagraph a. of this Ordering Paragraph, interpolated results from CalSPEED drive tests of LTE and 5G service created by CPUC Staff or its contractors performed on or after the third and sixth anniversaries of the closing date of the merger shall be the basis upon which New T-Mobile compliance with the deployment requirements in Ordering Paragraph 4 subparagraphs a. and c. shall be determined, and results from such drive tests performed on or after the fourth anniversary of the closing date of the merger shall be the basis upon which New T-Mobile compliance with the deployment requirements in Ordering Paragraph 4 subparagraph b. shall be determined. Such results shall be presented to New T-Mobile during a period between eight months and nine months following the third, fourth and sixth anniversaries of the closing date of the merger.

a. New T-Mobile may challenge such results within 60 days of receipt from Staff of CalSPEED results showing non-compliance with the deployment requirements in OP 4.

b. Staff and New T-Mobile shall meet and confer to discuss their respective positions regarding compliance and attempt to resolve any issues to the extent possible. Staff and New T-Mobile shall provide the Compliance Monitor with a report regarding such meetings identifying any outstanding disagreements with respect to New T-Mobile's compliance with the requirements in Ordering Paragraph 4.

31. As New T-Mobile is required by the FCC to submit drive test results within nine months of the third and sixth anniversaries of the closing date of the merger, New T-Mobile shall meet with Staff to consult regarding the drive test methods and specifications it proposes to use prior to concluding its consultation with the FCC on design of the drive test. Within 30 days of the submission of its drive test results to the FCC, New T-Mobile shall provide Staff with the California portion of this data, analysis and reports. New T-Mobile shall provide Staff with all testing data, analysis and reports thereof it provides to the California Emerging Technology Fund at the same time it provides such information to CETF. Staff shall determine New T-Mobile costs by allocating pro-rata the costs of CalSPEED testing and analysis that the T-Mobile and Dish networks bear to the total number of networks tested, plus the cost of mobile devices and service subscriptions deemed necessary by Staff. Staff shall review its test code/methodology with New T-Mobile prior to commencing its testing.

I. DIVERSITY

32. New T-Mobile shall strive to achieve and maintain a diverse board of directors that includes substantial representation by people of color. New T-Mobile shall evaluate the makeup of its Board on an ongoing basis, encourage its stockholders to select diverse candidates to fill Board vacancies, and propose a diverse pool of candidates for its stockholders to consider when filling vacancies.

33. New T-Mobile shall continue to have a Diversity and Inclusion Office led by a Vice President with budgetary and decision-making authority to ensure that diversity is integrated into all aspects of the company and is among the company's core values.

34. New T-Mobile shall continue to have a Vice-President of Governmental Affairs who works with community organizations on policy matters, technology needs, and investment.

35. New T-Mobile shall strive to increase the diversity of its workforce in California at all levels to reflect the diversity of communities where it operates. It shall conduct (and enhance existing) mentoring, outreach, recruiting, development and training programs that provide meaningful opportunities for employment and advancement.

36. New T-Mobile shall support and partner with local trade schools and other community and civic organizations in California to train and/or certify individuals for employment in the wireless, telecommunications, or technology industries. New T-Mobile shall invest in local community programs designed to prepare people of color and other diverse individuals to succeed in the workplace, including mentoring programs to enhance opportunities for upward mobility from entry-level to mid-level and senior management.

37. New T-Mobile shall strive to substantially increase, over the next three years, its diverse supplier spending in California. It shall establish specific goals in this area, including goals for the use of minority-owned banking, accounting, other financial, and legal services companies. New T-Mobile's goal for five years following the merger shall be to exceed T-Mobile's 22.88% annual diversity spending in California in 2019.¹¹ See T-Mobile's 2019 Annual Report and 2020 Plan, March 2, 2020, pursuant to CPUC's General Order 156, available at: <https://www.cpuc.ca.gov/supplierdiversity/>. The Commission takes official notice of this report.

J. ENSURING COMPLIANCE

38. Compliance Monitor and Enforcement. Within 120 days of the effective date of the Commission decision approving the merger, CPUC shall hire, at New T-Mobile's expense, an independent monitor to review New T-Mobile's compliance with all its commitments herein. The compliance monitor shall meet initially with Staff within 30 days of being hired and at least quarterly thereafter to report on New T-Mobile's adherence to the conditions imposed by this decision.

39. The Compliance Monitor will make semi-annual findings on merger compliance and/or lack of compliance. For the instances where the New T-Mobile is out of compliance, the Compliance Monitor will recommend a penalty to bring T-Mobile into compliance and forward his findings and recommendation to the Director of the Commission's Communications Division and the Attorney General. The Attorney General may enforce this Order either pursuant to Public Utilities Code Sections 702 and 2101, or under its independent authority, and such enforcement actions would not

interfere with the Commission's authority but would be complementary. The CPUC shall develop a citation program that can be utilized to impose penalties on New T-Mobile for violations of the terms of this decision.

40. Baseline Report. Following completion of the Merger, New T-Mobile shall provide the following information to CPUC annually in the 4th calendar quarter of each year through 2026 or on such other timetable as New T-Mobile and CPUC shall agree on:

- a. Current California full time and full-time equivalent employee headcount. The first report shall also include the number of full-time and full-time equivalent employees of Sprint, Wireless Assurance and T-Mobile full-time and full-time equivalent employees in California on April 1, 2020.
- b. Transfer of LifeLine customers from Sprint to New T-Mobile.

41. MVNO agreements and their status Annual Compliance Reports. New T-Mobile shall submit annual compliance reports to CPUC within thirty (30) days of the end of every calendar year. These reports shall include:

- a. Capital expenditures in California – totals and by project.
- b. Year-end shapefiles showing where in-home broadband is offered and including the following information:
 - (i) Speeds offered.
 - (ii) New T-Mobile pricing.
 - (iii) Competitor pricing.
- c. Upcoming buildout plans.
- d. Detailed reports on network enhancements and timeframes. For rural areas, identify specific locations where work is being done.
- e. Inventory of EBS spectrum leases, including the licensee, whether the spectrum is currently in use and whether there have been requests by the educational institutions or any California tribal organizations to utilize the spectrum, including documentations of meeting or partnerships, and discussions of additional buildout. Identification and progress on the 10 Homework Gap pilots.
- f. New T-Mobile capacity limitations including reporting on how DISH's network use may be impacting capacity.
- g. Pricing for its mobile phone plans offered in California, including explanations of the available handsets and terms identifying the plan as prepaid or postpaid.
- h. Progress in designating and building the prioritized facilities in 10 rural areas.
- i. Price structures and number of subscribers by price tier/plan reported and pricing for its plans offered in California, including explanations of the available handsets and terms identifying the plan as prepaid or postpaid

- j. Price schedules for all in-home broadband services
- k. Progress in implementing the DoJ condition to honor existing California MVNO agreements on their existing terms, and to extend these MVNO agreements for seven years unless having demonstrated to the DoJ Monitoring Trustee that doing so will result in a material adverse effect, other than as a result of competition, on New T-Mobile's ongoing business.
- l. Total full time and full time equivalent employees by business unit in the State.
- m. For California LifeLine Program:
 - (i.) New T-Mobile shall report on its progress according to the Implementation Plan submitted according to Condition E3 above. New T-Mobile shall include information about which elements of the Implementation Plan have been implemented and the results.
 - (ii.) New T-Mobile shall report on its participation in the pilot program (under Metro by T-Mobile or whichever T-Mobile brand replaces Boost in the pilot program).

(End of Appendix B)