

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In re Application of )  
 )  
T-Mobile US, Inc., and ) WT Docket No. 18-197  
Sprint Corporation )  
 )  
For Consent to Transfer Control of )  
Licenses and Authorizations )

**PETITION FOR RECONSIDERATION**

**Submitted by**

**UNION TELEPHONE COMPANY, dba UNION WIRELESS and  
CELLULAR NETWORK PARTNERSHIP, AN OKLAHOMA  
LIMITED PARTNERSHIP, dba PIONEER**

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## SUMMARY

The Petitioners request the Commission to reconsider and reverse its decision, in the Order approving the proposed transaction involving Mobile US, Inc., and Sprint Corporation, to use the 2010 U.S. Census definition of “rural area” for purposes of the commitment of T-Mobile and Sprint to build out their 5G broadband network to rural communities. The Commission’s reliance on the expansive definition of rural areas in the 2010 U.S. Census would have the inadvertent effect of eroding the prospect that rural 5G network conditions and in-home broadband conditions imposed on the Applicants by the Order will be successful in promoting closure of the digital divide, an important goal pursued by the Order.

Rather than relying on a definition of “rural areas” that is at odds with the Commission’s stated policies and objectives in the Order, the Commission should reconsider its approach and instead utilize a “rural areas” definition that will ensure that the Applicants deploy 5G networks and in-home broadband that will benefit rural Americans who are most in need of advanced broadband services. The Order itself illuminates a path toward an alternative definition that will be much more effective in serving the goals and objectives adopted in the Order.

With respect to roaming, the Petitioners request the Commission to reconsider its finding that no special roaming-related conditions are necessary, and urge the Commission to adopt such conditions as a means of ensuring that small rural carriers are able to enter into commercially reasonable roaming agreements with New T-Mobile. The Order overlooks considerable evidence in the record showing that small rural carriers will be adversely affected by the proposed trans-

action because New T-Mobile will have strong incentives to refrain from entering into commercially reasonable roaming agreements with these carriers. These incentives are engendered in part by the fact that Sprint's current interest in being a cooperative roaming partner (principally due to its lack of sufficient low-band spectrum) will evaporate when the proposed transaction is consummated, because T-Mobile has extensive low-band spectrum licenses.

Thus, New T-Mobile, if left unchecked, will likely continue T-Mobile's pattern of charging excessive roaming rates and otherwise obstructing small rural carriers' efforts to obtain commercially reasonable agreements. There is no reasonable basis for the Commission's conclusion that its existing roaming rules and complaint process will provide adequate protection for these carriers. Moreover, the Commission should impose a CDMA roaming condition to ensure that New T-Mobile provides commercially reasonable roaming agreements to small rural carriers using CDMA networks.

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TO: The Commission

**PETITION FOR RECONSIDERATION**

Union Telephone Company, dba Union Wireless (“Union”) and Cellular Network Partnership, an Oklahoma Limited Partnership, dba Pioneer Cellular (“Pioneer”) (collectively, the “Petitioners”), by counsel and pursuant to Section 405(a) of the Communications Act of 1934 (“Act”) and Section 1.106(b)(1) of the Commission’s rules, hereby file this petition for reconsideration of the Memorandum Opinion and Order, Declaratory Ruling, and Order of Proposed Modification in the above-captioned proceeding.<sup>1</sup> In support thereof, the following is respectfully submitted:

JUSTIFICATION FOR THE FILING OF A PETITION FOR RECONSIDERATION

Consideration of this petition is appropriate because the facts and arguments upon which the Petitioners rely could not have been advanced during earlier opportunities for comment,<sup>2</sup>

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<sup>1</sup> *Application of T-Mobile US, Inc., and Sprint Corporation, for Consent to Transfer Control of Licenses and Authorizations, et al.*, WT Docket No. 18-197, *et al.*, Memorandum Opinion and Order, Declaratory Ruling, and Order of Proposed Modification, FCC 19-103 (rel. Nov. 5, 2019) (“*Order*”).

<sup>2</sup> 47 C.F.R. §§ 1.106(b)(2)(ii), 1.106(c)(1).

and because consideration of such facts and arguments is required in the public interest.<sup>3</sup>

*Rural 5G Coverage and In-Home Broadband Service*

A party may file a petition for reconsideration of an order denying its petition to deny, and rely on facts and arguments not previously presented to the FCC, if such facts and arguments “relate to events which have occurred or circumstances which have changed since the last opportunity to present such matters to the Commission.”<sup>4</sup> The Petitioners rely on facts and arguments that relate to the T-Mobile/Sprint Commitments Letter.<sup>5</sup> Neither the Commission’s rules nor the Commission itself gave the Petitioners a prior opportunity to address the Letter.

The Commission’s rules gave the Petitioners three potential opportunities to present facts and arguments regarding the T-Mobile/Sprint transfer of control applications: (1) in a petition to deny the applications filed no later than 30 days after the date of the public notice listing the applications as accepted for filing;<sup>6</sup> (2) in a reply to an opposition to a petition to deny filed within 5 days after the time for filing the opposition has expired;<sup>7</sup> and (3) a petition to deny a major amendment to the applications filed no later than 30 days after the date of the public notice

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<sup>3</sup> *Id.*, § 1.106(c)(2).

<sup>4</sup> *Id.*, § 1.106(b)(2)(i). *See id.*, § 1.106(c)(1).

<sup>5</sup> Ex Parte Letter from Nancy Victory, Counsel to T-Mobile, and Regina Keeney, Counsel to Sprint, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 18-197, at 5 (filed May 20, 2019) (“T-Mobile/Sprint Commitments Letter” or “Letter”). *See Order* at ¶ 19 n.40.

<sup>6</sup> *See* 47 C.F.R. § 1.939(a)(2). The Commission departed from its rules and gave parties in interest 40 days to file petitions to deny the T-Mobile/Sprint transfer of control applications. *See T-Mobile US, Inc. and Sprint Corp. Seek FCC Consent to the Transfer of Control of the Licenses, Authorizations, and Spectrum Leases Held by Sprint Corp. and Its Subsidiaries to T-Mobile US, Inc.*, 33 FCC Rcd 6771, 6778 (WTB 2018).

<sup>7</sup> *See id.* §§ 1.45(c), 1.939(f). The Commission ended up giving the Petitioners 44 days to file their reply. *See Applications of T-Mobile US, Inc. and Sprint Corp. for Consent to Transfer Control of Licenses and Authorizations – Extension of Date for Filing Replies*, Public Notice, 33 FCC Rcd 9426, 9426 (WTB Oct. 2, 2018).

listing the major amendment as accepted for filing.<sup>8</sup> The Petitioners took advantage of the first two opportunities, but never got the third since the Commission never issued a public notice regarding a major amendment to the T-Mobile/Sprint transfer of control applications.

The Commission gave Petitioners two additional opportunities to address the merits of the T-Mobile/Sprint transfer applications pursuant to its *ad hoc* procedures described below:

When applicants have made substantial new submissions in support of their transactions after their initial applications, the Commission has typically paused its 180-day informal time clock to allow for staff and third-party review and has sought additional comment from the public. Doing so ensures that the public interest in a speedy review is balanced with the public interest in careful analysis and the need for third parties to comment on material information submitted by the applicants.<sup>9</sup>

First, the Commission gave Petitioners an opportunity to file comments after T-Mobile US, Inc. (“T-Mobile”), and Sprint Corporation (“Sprint”) (collectively, the “Applicants”) filed a new econometric study with the Commission on November 6, 2018.<sup>10</sup> Second, it gave Petitioners a last opportunity after “the Applicants filed significant additional information [on February 21, 2019 and March 6, 2019] regarding their network integration plans for 2019-2021, an extension of their previously filed merger simulation analysis to cover the years 2019-2021, and additional information regarding their claims related to fixed wireless broadband services.”<sup>11</sup>

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<sup>8</sup> See 47 C.F.R. § 1.939(a)(2), (e).

<sup>9</sup> *Commission Announces Receipt of Supplemental Analysis from T-Mobile; Establishes Comment Deadline*, 33 FCC Rcd 11157, 11157-58 (WTB 2018) (footnote omitted).

<sup>10</sup> See *id.* at 11157.

<sup>11</sup> *Commission Announces Receipt of Additional Analysis and Information from T-Mobile and Sprint; Establishes Comment Deadline*, DA 19-161, Public Notice, 34 FCC Rcd 1122, 1122-23 (WTB Mar. 7, 2019).

The Commission apparently did not consider the T-Mobile/Sprint Commitments Letter to be a “substantial new submission.” It did not issue a public notice announcing receipt of the Letter and establishing a comment deadline. Accordingly, the Commission gave Petitioners no opportunity to present facts and arguments relating to the Letter prior to the issuance of the *Order*.<sup>12</sup> Section 405(a) of the Act and Section 1.106(b)(1) of the Commission’s rules afforded Petitioners their first opportunity to present facts and arguments relating to the commitments that the Applicants made—and did not make—to the Commission on May 20, 2019.

There is a further reason that this petition is justified pursuant to the requirements of Section 1.106 of the Commission’s rules. Specifically, it has become clear only in the *Order* itself that the Commission is relying on rural 5G network conditions imposed on the Applicants as a means of closing the digital divide in more sparsely populated areas with infrastructure gaps and shortcomings, with a lack of wired broadband access, and with greater distances from health care providers and educational opportunities.<sup>13</sup> This petition demonstrates that, because of the manner in which the term “rural areas” is defined in the rural 5G network conditions, there is a substantial likelihood that New T-Mobile will not make any significant deployment of 5G networks in sparsely populated rural areas unless the Commission reconsiders its decision.

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<sup>12</sup> While it is true that the Commission received numerous *ex parte* filings related to the proposed transaction, *Order* at ¶ 23, it was not reasonable for the Commission to remain silent regarding the submission of the T-Mobile/Sprint Commitments Letter, to refrain from issuing a public notice seeking comment on the Letter, and to rely on the *ex parte* process as a sufficient means of ventilating issues presented by the Letter. This is especially true in light of the fact that the submission of the Letter was one of the key events in the process of reviewing the proposed transaction, and the commitments detailed in the Letter were shaped in part by the Applicants’ *ex parte* meetings with the Commission and their discussions with Commission staff. *See id.* at ¶ 19.

<sup>13</sup> *See id.* at ¶ 269.

It also is in the public interest for the Commission to consider the facts and arguments relied on by the Petitioners because taking the actions advocated by the Petitioners is necessary to ensure that the rural 5G network conditions are effective in obligating New T-Mobile to make 5G deployments that will effectively contribute to closing the digital divide, and also to ensure that the proposed transaction will promote the Commission's universal service policies and its prudent administration of the Universal Service Fund ("USF").

### *Roaming*

With respect to roaming, the Commission's consideration of the facts or arguments relied on in this petition is required in the public interest. The *Order* fails to take sufficient account of the dire circumstances that would be faced by small rural carriers in the absence of roaming conditions imposed on the Applicants that will ensure fair and reasonable roaming rates, reciprocal agreements, and other terms. The public interest will be best served if the Commission recognizes the unique circumstances presented by the proposed transaction, and acts to protect and preserve the operations and competitiveness of small rural carriers.

### STATUTORY STANDARD FOR APPROVAL OF THE PROPOSED TRANSACTION

The Commission explains in the *Order* that, "if we are unable to find that a proposed transaction even with such conditions serves the public interest or if the record presents a substantial and material question of fact, then we must designate the application for hearing."<sup>14</sup>

As the Petitioners demonstrate in the following sections, the Commission, with respect to the issues of rural 5G coverage and in-home broadband service, must reconsider its decision

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<sup>14</sup> *Id.* at ¶ 42 (citing 47 U.S.C. § 309(e)).

and take further action in order to make a finding that the proposed transaction serves the public interest, and in order to resolve a substantial and material question of fact. The question of fact involves whether the Applicants, in complying with the rural 5G network conditions imposed in the *Order*, will in fact, and as intended by the Commission, (1) deploy 5G services in a manner that will further the Commission’s goal of closing the digital divide; and (2) provide in-home broadband service in sparsely populated rural areas.

In addition, with respect to the issue of roaming, the Commission must reconsider its decision and take further action in order to make a finding that the proposed transaction serves the public interest. As the Petitioners demonstrate, there is no credible basis for the Commission’s determination in the *Order* that roaming-related conditions are not required as a means of ensuring that the proposed transaction will serve the public interest.

#### FACTS AND ARGUMENTS IN SUPPORT OF THE PETITION FOR RECONSIDERATION

##### I. RURAL 5G COVERAGE AND IN-HOME BROADBAND SERVICE

###### A. The Commission’s Reliance on an Expansive Definition of “Rural Areas” Would Result in a Failure to Effectively Promote the Goal of Closing the Digital Divide

###### 1. Rural 5G Coverage

In its assessment of rural 5G coverage issues presented by the proposed transaction, the Commission notes that “[w]e are persuaded that the proposed transaction will result in significant coverage improvements in rural areas relative to the standalone companies. We believe that improved coverage in rural areas would be an important public interest benefit.”<sup>15</sup>

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<sup>15</sup> *Id.* at ¶ 257.

In addressing problems related to “gaps or shortcomings in local infrastructure”<sup>16</sup> in rural communities, the Commission explains that “increased rural wireless deployment will create many benefits. For example, there tend to be fewer wired broadband options in rural areas relative to urban areas, and the distances from health care providers and educational opportunities in rural areas can make telehealth services and distance learning more important.”<sup>17</sup>

The Commission emphasizes that a key objective of its rural 5G network conditions is to advance a core universal service goal: to close the digital divide.<sup>18</sup> Specifically, the FCC concludes that, “[b]y bringing new connectivity and expanded competition to underserved rural areas, the proposed transaction will ensure that 5G helps to close, rather than widen, the digital divide.”<sup>19</sup>

In the Petitioners’ view, there is a substantial and material question of fact regarding whether the rural 5G network conditions will result in the delivery of new connectivity and expanded competition to sparsely populated rural areas, and will contribute to closing the digital divide in those areas, as intended by the Commission. To resolve this question of fact, and in light of the Commission’s interest in ensuring that the *Order* serves as an effective vehicle for helping to close the digital divide, the FCC should reconsider and modify the *Order* as it relates to the Applicants’ rural 5G coverage obligations. Left unchanged, the *Order* will likely fall well short of

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<sup>16</sup> *Id.* at ¶ 269.

<sup>17</sup> *Id.* (footnote omitted).

<sup>18</sup> The Commission notes generally that “5G deployment in the more rural areas of the nation will lead to important applications such as precision agriculture, and may help close the digital divide.” *Id.* at ¶ 82 (emphasis added) (footnote omitted). Moreover, Chairman Pai endorses the merger transaction because he concludes it “will ... help close the digital divide.” *Id.*, Statement of Chairman Ajit Pai. He explains that “[t]his Commission is committed to ensuring that all Americans benefit from the transformative impact of 5G, not just those living in big cities like New York City and Los Angeles. And this transaction is an important step toward accomplishing that goal.” *Id.* (emphasis added).

<sup>19</sup> *Id.* at ¶ 269 (footnote omitted).

the Commission's expectation that 5G deployments by New T-Mobile will help to close the digital divide in those more rural areas that are the focus of the Commission's concern in the *Order*.<sup>20</sup>

As the Petitioners have noted, the Commission's goal with respect to rural 5G coverage is that the proposed transaction will result in bringing advanced broadband services to consumers living, working, and traveling through the more rural areas in the country, such as rural areas where there are gaps and shortcomings in infrastructure, where there are few, if any, wired broadband options, and where there is a marked need for telemedicine services, distance learning services, and similar services and opportunities. The problem is that, under the terms of the *Order*, it is unlikely that New T-Mobile's 5G network deployments will actually bring broadband to very many of these rural areas.

The reason for this is that the Commission's rural 5G network conditions<sup>21</sup> adopt the Applicants' self-defined commitment to deploy 5G networks in "rural areas" as defined by the 2010 U.S. Census.<sup>22</sup> Applicants' definition creates a roadblock for the Commission's objective that the proposed transaction will ensure that 5G helps to close the digital divide.

Specifically, the U.S. Census Bureau definition is expansive, treating as "rural" any territory with less than 2,500 people.<sup>23</sup> Areas that the Commission seeks to target for the Applicants'

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<sup>20</sup> *Id.* at ¶ 82.

<sup>21</sup> The Commission's rural 5G network conditions adopt the Applicants' commitments regarding 5G deployment in rural areas. *See id.* at ¶¶ 263-265, 266 (discussing the Applicants' commitments).

<sup>22</sup> The Commission indicates in the *Order* that the term "rural areas" is as defined by the 2010 U.S. Census. *See id.* at ¶ 27 & n.71.

<sup>23</sup> The U.S. Census Bureau identifies two types of urban areas: (1) Urbanized Areas of 50,000 or more people; and (2) Urban Clusters of at least 2,500 and less than 50,000 people. The Bureau then provides that "rural" encompasses "all population, housing, and territory not included within an urban area." U.S. Census, Geography Program, "Urban and Rural," accessed at <https://www.census.gov/programs-surveys/geography/guidance/geo-areas/urban-rural.html>. The Census Bureau has

5G deployment—more sparsely populated areas with fewer wired broadband options and with greater distances separating people from valued services and opportunities—constitute only a subset of the “rural areas” covered by the 2010 U.S. Census definition.

The problems associated with the Commission’s adoption of the Applicants’ definition of “rural areas” are heightened by the way the Applicants define “rural population” in the T-Mobile/Sprint Commitments Letter.<sup>24</sup> Applicants define this term as the population within “rural areas” derived from data licensed through a 2016 Pitney Bowes study.<sup>25</sup> However, neither the Letter nor the *Order* provides a citation to the referenced 2016 Pitney Bowes document.<sup>26</sup>

Although the Petitioners cannot verify the Pitney Bowes information put forth by T-Mobile, they note that it appears to be 2010 data that has been updated, presumably to a 2016 estimate.<sup>27</sup> T-Mobile claims that the Pitney-Bowes study records the U.S. population at 327.48

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also specified that, “[t]o qualify as an urban area, the territory identified according to criteria must encompass at least 2,500 people, at least 1,500 of which reside outside institutional group quarters.” U.S. Census, “2010 Census Urban and Rural Classification and Urban Area Criteria,” accessed at <https://www.census.gov/programs-surveys/geography/guidance/geo-areas/urban-rural/2010-urban-rural.html>, quoted in *Order*, Appx. F (Technical Appendix) at ¶ 23 n.20.

<sup>24</sup> T-Mobile/Sprint Commitments Letter at 5.

<sup>25</sup> *Id.* at 6-7. See *Order* at ¶ 27 n.71, ¶ 276.

<sup>26</sup> T-Mobile states that the Pitney Bowes study is “based on the 2010 U.S. Census, **but then updated based on more recent information**.” According to the 2016 Pitney Bowles [*sic*] study, the Rural Population is 61.98M.” T-Mobile/Sprint Commitments Letter, Attach. 1 at 7 (emphasis added). The Petitioners have been unable to determine with precision which Pitney Bowes document the Commission and T-Mobile are referencing. There does not appear to be such a document available online, and those Pitney Bowes documents that might be relevant require a subscription or purchase.

<sup>27</sup> The *Order* states that it is “reasonable to rely on updated 2010 Census data to determine the population in those [rural] areas.” *Order* at ¶ 276. The Petitioners believe 61.98 million *to be a reasonable estimate of rural population in 2016*, based on the U.S. Census article, *New Census Data Show Differences Between Urban and Rural Populations*, Release No. CB16-210 (Dec. 8, 2016) accessed at <https://www.census.gov/newsroom/press-releases/2016/cb16-210.html> (stating that “[r]ural areas cover 97 percent of the nation’s land area but contain 19.3 percent of the population (about 60 million people)”).

million, which is a number much closer to the 2016 U.S. Census population count of 327.2 million, and significantly more than the U.S. Census count of 308.8 million for 2010.<sup>28</sup>

All this is to say that T-Mobile is defining rural geography consistent with the 2010 Census, while defining rural population consistent with 2016 data. The effect of these definitional choices is significant. When T-Mobile builds a low-band 600 MHz facility, it allows the company to count covered population based on three-year-old data, while the covered geography is based on nine-year old data, when the urbanized areas throughout much of the nation were smaller.

The problems caused by T-Mobile's approach (which has been adopted by the Commission) are illustrated by the Dallas-Fort Worth-Arlington Urban Area and Population Density Map ("Dallas Map"), which is included in the Attachment to this petition. In the past nine years, Dallas-Fort Worth has grown substantially, while the 2010 Rural Area boundaries have not changed.<sup>29</sup> The map shows that numerous areas adjacent to the Dallas Urbanized Area (shown in the medium shade of gray on the map, which represents a population density of 100 to 1,000) would qualify as "rural areas" under the 2010 U.S. Census definition. People living in these areas, however, because of their proximity to Dallas, are not likely to have significant infrastructure gaps and shortcomings, to lack wired broadband options, or to require Internet-based services such as telemedicine and distance learning, which have greater utility in more sparsely populated areas.

The Dallas Map demonstrates that New T-Mobile would have the option of satisfying the

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<sup>28</sup> See U.S. Census Fact Finder, accessed at [https://factfinder.census.gov/faces/tableserv-ices/jsf/pages/productview.xhtml?pid=PEP\\_2018\\_PEPANNRES&src=pt](https://factfinder.census.gov/faces/tableserv-ices/jsf/pages/productview.xhtml?pid=PEP_2018_PEPANNRES&src=pt).

<sup>29</sup> In fact, next year's U.S. Census will likely produce data showing substantial increases in the geographic scope of Urbanized Areas in the Dallas-Fort Worth-Arlington area.

Commission's rural 5G network conditions by upgrading and extending T-Mobile's existing broadband networks in the Dallas area, using T-Mobile's 600 MHz spectrum (for which T-Mobile already has licenses),<sup>30</sup> in the more densely populated areas (*i.e.*, areas with densities between 100 and 1,000 people).

More sparsely populated areas, in many cases located at greater distances from the Dallas Urbanized Area (shown in the light shade of gray on the map, which represents a population density of 0 to 100), will require significantly greater investment per person or household.<sup>31</sup>

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<sup>30</sup> T-Mobile's current deployment plans rely primarily on its 600 MHz low-band spectrum. *See Order* at ¶ 215 n.719. The Commission has explained that:

By adding 2.5 GHz mid-band spectrum to a cell site, that spectrum can be used to serve the demand close to the cell site, leaving more capacity on the low-band 600 MHz spectrum free for use by those further from the cell site. That is to say, even users served by 600 MHz spectrum who are outside the range of 2.5 GHz spectrum on the same cell site will see meaningful quality improvements from the deployment of the 2.5 GHz spectrum, because more 600 MHz capacity will be available for them. In this way, we find that through its simultaneous deployment of both low-band and mid-band spectrum, New T-Mobile could provide higher network coverage and capacity performance than either standalone Sprint or T-Mobile.

*Id.* at ¶ 238 (footnotes omitted). In the Petitioners' view, this utilization of 600 MHz spectrum (in which signals can reliably propagate 10 or more miles in moderately flat terrain) would be an option for New T-Mobile in Dallas, and in other urban areas across the nation, as a means of meeting the Commission's rural 5G network conditions and in-home broadband conditions. Such a strategy would be much less realistic in sparsely populated rural areas that have far fewer cell sites than the "rural areas" included in the 2010 U.S. Census definition.

<sup>31</sup> The Rural Wireless Association ("RWA") has explained that:

T-Mobile has focused its capital expenditure on urban and suburban markets and has mostly neglected America's rural markets. Moreover, T-Mobile has neglected in any meaningful way to sell, lease, or enter into joint-venture build-outs with rural carriers to make use of its valuable 600 MHz, 700 MHz, PCS, and AWS spectrum. T-Mobile is arguing that with the 600 MHz spectrum it recently acquired during the FCC's incentive auction, it now finally aspires to become a rural-focused carrier and deliver 5G services to forgotten corners of the United States. T-Mobile may claim that it intends to change its stripes, but the last twenty years provide ample evidence of a T-Mobile buildout strategy that neglects rural markets.

RWA Petition to Deny, WT Docket No. 18-197 (filed Aug. 27, 2018) ("RWA Petition"), at 22-23.

These are the areas the Commission seeks to target because they are more likely to have greater gaps and shortcomings in local infrastructure, to lack wired broad options, and to have a greater need for Internet-based services such as telemedicine and distance learning.

If the Commission retains the 2010 U.S. Census definition of “rural areas,” the deployment options that New T-Mobile would have in Dallas would be replicated in urban areas across the country. This would mean that New T-Mobile would likely be able to fulfill the Commission’s rural 5G network conditions—either completely or substantially—*without making any significant deployments* in more sparsely populated rural areas where the Commission intends for the *Order* to help to close the digital divide. In fact, there is a strong case that T-Mobile has already complied with the rural 5G network conditions to a significant degree, even without any consummation of the proposed transaction.<sup>32</sup> In the Petitioners’ view, the Commission could not have intended such an outcome.

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<sup>32</sup> For example, the T-Mobile Coverage Map, published by T-Mobile on its website on December 2, 2019, shows virtually solid 5G coverage in the densely populated suburban areas southwest of Dallas and northeast of the Alvarado Urban Cluster. T-Mobile, “5G Coverage Map,” *accessed at* <https://www.t-mobile.com/coverage/5g-coverage-map>. See Attachment. (Alvarado is 35.1 miles from Dallas. See Distance Between Cities.US, *accessed at* <https://www.distancebetweencities.us/index.php>.) As shown on the Dallas Map, with the exception of the Homesteads Addition Urban Cluster, this is an area with a population density of 100 to 1,000 people, and is thus treated as a “rural area” by the 2010 U.S. Census definition. T-Mobile announced on December 2 that it:

lit up the country’s first nationwide 5G network, covering more than 200 million people and more than 5,000 cities and towns all across the country. Today’s launch immediately catapults T-Mobile into the leadership position as the country’s biggest 5G network, covering more than 1 million square miles, much of that in rural America.

T-Mobile, “T-Mobile 5G: It’s On! America’s First Nationwide 5G Network Is Here,” Dec. 2, 2019, *accessed at* <https://www.t-mobile.com/news/americas-first-nationwide-5g-network>. It is reasonable to conclude that, similar to the Dallas-Alvarado example, this 5G activation in “rural America” in large part involves extending 5G coverage to densely populated “rural areas” located in relatively close proximity to urban areas all across the nation.

## 2. In-Home Broadband Service

The Commission observes that the Applicants, in defending their commitments concerning in-home broadband service, “claim that New T-Mobile will be bringing service where none exists today, and that the benefits in that regard are priceless for those who live or work on the other side of the Digital Divide.”<sup>33</sup> In addition, the Applicants have stated that they:

commit that, within three years of closing, New T-Mobile will market the in-home service to 9.6 million eligible households, of which at least 2.6 million are rural households and will have at least [REDACTED] million supported households, of which at least [REDACTED] million are rural households. In addition, within six years of closing, New T-Mobile will market its in-home broadband service to at least 28 million eligible households, of which 5.6 million are rural, and will have at least [REDACTED] million supported households, of which at least [REDACTED] million are rural households.<sup>34</sup>

In adopting the Applicants’ in-home broadband commitments as conditions, the Commission states that these conditions can be expected to provide “performance improvements [to] consumers, especially rural consumers,”<sup>35</sup> and that the “benefits [from the Applicants’ in-home broadband commitments] are likely to be particularly important to consumers who today have limited choice for broadband access—or no broadband access at all.”<sup>36</sup> In the Petitioners’ view, there is a substantial and material question of fact regarding whether the in-home broadband conditions will result in performance improvements for rural consumers, in the manner and to the extent contemplated by the Commission.

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<sup>33</sup> *Order* at ¶ 280 (internal quotation marks and footnote omitted).

<sup>34</sup> T-Mobile/Sprint Commitments Letter at 5. The Applicants also represent that “[t]he number of supported rural households will be approximately 300,000 more within three years and approximately 400,000 more within six years from the closing than originally planned.” *Id.*

<sup>35</sup> *Order* at ¶ 284.

<sup>36</sup> *Id.* at ¶ 283.

Based on the Dallas Map, and the 2010 U.S. Census definition of “rural areas,” it is reasonable to conclude that a significant portion of the 2.6 million and 5.6 million rural households that will have access to New T-Mobile’s in-home broadband within three and six years of closing, respectively, will actually be located in areas that, instead of being rural, have some or all of the characteristics of suburban areas.<sup>37</sup> The expansive definition of rural areas used by the 2010 U.S. Census provides New T-Mobile with an incentive, and an opportunity, to meet the in-home broadband conditions by focusing on deployments in more heavily populated areas that nonetheless are considered “rural” under the definition.

The Commission’s adoption of T-Mobile’s definitions thus works to the disadvantage of consumers living in more sparsely populated rural areas, and also calls into question the Commission’s optimistic assertion that consumers with limited or no broadband access choices will benefit from New T-Mobile’s in-home broadband deployments.

B. The Commission Should Revise the Definition of “Rural Areas”

There is a solution to the problems caused by the expansive definition of “rural areas” that the Commission has adopted: It can simply adopt a narrower definition. More sparsely populated rural areas should be able to benefit from new broadband connectivity that would be

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<sup>37</sup> For purposes of this discussion, the Petitioners define a “suburban” area as a mixed-use or residential area, existing either as part of a city or urban area or as a separate residential community within commuting distance of a city. WIKIPEDIA, “Suburb,” accessed at <https://en.wikipedia.org/wiki/Suburb>. The Commission notes in the *Order* that “the transaction would likely be competitively beneficial for those who live in the many rural and suburban areas where Sprint would be unlikely to offer robust 5G services.” *Order* at ¶ 175. Although the Commission does not define the term “suburban” in the *Order*, it appears to be of the view that “rural” areas (as defined by the 2010 U.S. Census) and “suburban” areas are distinct. In the Petitioners’ view, and as illustrated by the Dallas Map, the 2010 U.S. Census definition of “rural area” tends to blur this distinction.

provided by the proposed transaction<sup>38</sup> without having to compete with areas that have some or all of the characteristics of suburban areas, that are more likely to already have access to advanced broadband services, and that also are more likely to be the beneficiaries of New T-Mobile's 5G deployments if the Commission retains the 2010 U.S. Census definition of rural areas.

Fortunately, the *Order* itself points toward a definition of "rural areas" that is much better suited for advancing the Commission's goal of closing the digital divide, a goal which the Commission emphasizes in the *Order* as an important consideration in its decision to approve the Applicants' proposed transaction.<sup>39</sup> Specifically, in describing in the *Order* the problems faced by rural areas that it seeks to address through the imposition of its rural 5G network conditions,<sup>40</sup> the Commission references the *Communications Marketplace Report*.<sup>41</sup>

The *Marketplace Report* states that the Commission's "efforts to promote broadband deployment and competition"<sup>42</sup> must be continued, that "competitive options for broadband are more limited in rural areas[,]"<sup>43</sup> and that "the business case to serve rural areas is often more difficult, which is why the Commission has consistently worked to provide universal service funding to rural areas and decrease the costs of the broadband investment, an effort we are committed to continuing."<sup>44</sup>

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<sup>38</sup> See *Order* at ¶ 269.

<sup>39</sup> See, e.g., *id.* at ¶ 7 (noting that, "[b]y bringing new connectivity and competition to underserved rural areas, the transaction will help to ensure that 5G will close the digital divide").

<sup>40</sup> See *id.* at ¶ 269.

<sup>41</sup> *Communications Marketplace Report, et al.*, GN Docket No. 18-231, *et al.*, Report, 33 FCC Rcd 12558 (2018) ("*Marketplace Report*"), cited in *Order* at ¶ 269 n.923.

<sup>42</sup> *Id.* at 12667.

<sup>43</sup> *Id.* at 12668 (footnote omitted).

<sup>44</sup> *Id.* (footnote omitted).

The *Marketplace Report* explains how it defines “rural areas” for purposes of “measur[ing] network coverage”<sup>45</sup> in the mobile wireless market: “Although the ... Act does not include a statutory definition of what constitutes a rural area, the Commission, for purposes of its analysis for the *Mobile Wireless Competition Report*, has defined a rural area as one with a population density of 100 people per square mile or less.”<sup>46</sup> In making its coverage analyses in the *Report*, the Commission employed the definition it used in the *Twentieth Report*.<sup>47</sup>

Using the Dallas Map as an example, it is reasonable to conclude that there are numerous areas across the country that would be considered “rural areas” under the 2010 U.S. Census definition, even though these areas would not be treated as “rural areas” under the definition the Commission adopted in the *Marketplace Report*.<sup>48</sup>

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<sup>45</sup> *Id.* at 12590.

<sup>46</sup> *Id.* at 12594 (emphasis added) (citing *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services*, WT Docket No. 17-126, *Twentieth Report*, 32 FCC Rcd 8968, 9000-01 (2017) (“*Twentieth Report*”). The Commission had noted in the *Twentieth Report* that it had been using the definition since 2004. 32 FCC Rcd at 9022 & n.265 (citing *Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies to Provide Spectrum-Based Services*, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 19078, 19086-88 (2004) (“*2004 Report and Order*”). In that Order, the Commission noted that it had previously used this baseline definition “for purposes of analyzing the average number of mobile telephony competitors in rural versus non-rural counties.” *2004 Report and Order*, 19 FCC Rcd at 19087.

<sup>47</sup> *Marketplace Report*, 33 FCC Rcd at 12594-95. While the Commission stated in the *2004 Report and Order* that applying a single, comprehensive definition for “rural area” may not be appropriate for all purposes, 19 FCC Rcd at 19087, the Commission concluded that its baseline definition could facilitate the evaluation of its rural-based policies, *id.* at 19086, that the definition would not be difficult to administer, and that it was not intended to be “so narrowly tailored to only include what many refer to as the most rural areas.” *Id.* at 19087.

<sup>48</sup> The Commission noted in the *Marketplace Report* that:

Under this definition [*i.e.*, a rural area is an area with a population density of 100 people per square mile or less] and using 2010 U.S. Census data, approximately 56 million people, or approximately 18% of the U.S. population, live in rural counties. These

This fact provides a compelling reason for the Commission to reconsider and modify the *Order* by applying the definition of “rural areas” it used in the *Twentieth Report*, and the *Marketplace Report*, applied on a county or equivalent basis, for purposes of determining whether New T-Mobile complies with the Commission’s rural 5G network conditions and in-home broadband conditions. The Commission’s taking this action will increase the likelihood that it will be able to deliver on its representation that “the proposed transaction will ensure that 5G helps to close, rather than widen, the digital divide.”<sup>49</sup>

In addition, defining “rural areas” in a manner that requires the Applicants to bring 5G to more sparsely populated rural areas will advance the Commission’s universal service policies and its prudent administration of the USF.<sup>50</sup> Eliminating incentives for New T-Mobile to comply with the rural 5G network conditions and in-home broadband conditions by concentrating its deployments in areas that have some or all of the characteristics of suburban areas, will help ensure that the Commission’s efforts to bring advanced broadband to rural communities through its USF

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counties comprise approximately 3 million square miles, or approximately 84%, of the geographic area of the United States.

33 FCC Rcd at 12594. The Commission observes in the *Order* that “[t]he Applicants cite plans to expand outdoor coverage to 59.4 million rural residents, and indoor coverage to 31 million rural residents,” and that the Applicants will have the ability to offer at least 10 Mbps mobile broadband Internet access service to 45.9 million rural consumers. *Order* at ¶ 258 (internal quotation marks omitted). In the Petitioners’ view, it is reasonable to conclude that it is not very likely that an appreciable portion of those 59.4 million “rural residents” are residing in rural areas, as defined by the Commission in the *Twentieth Report*.

<sup>49</sup> *Order* at ¶ 269 (footnote omitted).

<sup>50</sup> The Commission is “mindful of [its] obligation to safeguard the USF funds ultimately paid by ratepayers, and to ensure the funds are spent prudently ....” *Universal Service Contribution Methodology*, WC Docket No. 06-122, Notice of Proposed Rulemaking, 34 FCC Rcd 4143, 4144 (2019). In this case, prudence calls for the Commission to reconsider its decision in the *Order* in order to ensure that 5G deployments made by New T-Mobile in rural areas help to free up additional USF support to further expand advanced broadband availability across rural America.

support are effectively supplemented by New T-Mobile’s compliance with the rural 5G network conditions and in-home broadband conditions.

Finally, the Petitioners acknowledge that the Commission has adopted the 2010 U.S. Census definition of “rural area” in other cases, which it cites in the *Order*.<sup>51</sup> Nonetheless, as the Petitioners have explained, the Commission also cites, and relies upon, the *Marketplace Report*, which utilizes a definition of “rural area” that, unlike the 2010 U.S. Census definition, will include—rather than exclude—the rural areas that, as the Commission explains in the *Order*,<sup>52</sup> are most in need of 5G deployment.

The Petitioners respectfully urge the Commission to reconsider its view that the 2010 U.S. Census definition is “a reasonable, administrable approach to identifying rural areas for purposes of the rural 5G network conditions”<sup>53</sup> and instead rely on a definition that, when applied to the rural 5G network conditions and in-home broadband conditions, will more effectively close the digital divide and bring broadband services to rural Americans who are most in need.

## II. ROAMING

### A. The Commission’s Decision Concerning Roaming

The Petitioners, as well as several other parties, raised specific and significant concerns in this proceeding regarding the impact the proposed transaction would have on the ability of small

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<sup>51</sup> *Order* at ¶ 269 n.923, ¶ 276 n.945.

<sup>52</sup> *Id.* at ¶¶ 268-269 (describing rural areas in which there are gaps or shortcomings in local broadband infrastructure, there are fewer wired broadband options, and there is a need for telehealth and distance learning services).

<sup>53</sup> *Id.* at ¶ 276.

rural carriers to negotiate reasonable roaming agreements with New T-Mobile, unless the Commission imposes conditions that would curb New T-Mobile's incentives and ability to refuse to engage in good-faith negotiations, and to insist upon anti-competitive roaming agreements to the detriment of these carriers and their customers.<sup>54</sup>

The Commission dispenses with these concerns in a discussion spanning two paragraphs in its 171-page *Order*.<sup>55</sup> The FCC barely addresses the concerns expressed by the Petitioners and other parties, other than to conclude, with virtually no discussion or explanation, that "conditions relating to roaming rates, reciprocal agreements, and other terms proposed by commenters are not narrowly tailored to remedy any purported harms arising out of this transaction."<sup>56</sup>

Moreover, the Commission fails to explain or support its finding that "concerns about the availability of roaming service post-transaction will be addressed adequately by the Commission's general roaming policies and rules, which are designed to ensure that entities can obtain roaming agreements on reasonable terms and conditions."<sup>57</sup>

Finally, the Commission, in its perfunctory rejection of CDMA roaming concerns expressed by the Petitioners and other parties, credits the Applicants' claims regarding their intention to accommodate CDMA roaming customers, and concludes that "the phase-out of CDMA networks

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<sup>54</sup> See, e.g., Petitioners' Petition to Deny, Docket No. WT 18-197 (filed Aug. 27, 2018) ("Petition to Deny"), at 40-44; Petitioners' Reply to Opposition to Petition to Deny, WT Docket No. 18-197 (filed Oct. 31, 2018) ("Reply"), at 22-27. The Petitioners underscored the seriousness of the roaming issues posed by the proposed transaction by noting that "access to roaming on commercially reasonable terms is an existential aspect of their business." Petition to Deny at 41.

<sup>55</sup> *Order* at ¶¶ 297-298. One of the paragraphs is devoted to a discussion of CDMA roaming. *Id.* at ¶ 298.

<sup>56</sup> *Id.* at ¶ 297.

<sup>57</sup> *Id.*

is already underway and is not a transaction-related issue.”<sup>58</sup>

#### B. The Grounds for Reconsideration

The Commission, with virtually no explanation, defends its refusal to consider the imposition of any roaming conditions by taking the position that “concerns about the availability of roaming service post-transaction will be addressed adequately by the Commission’s general roaming policies and rules ....”<sup>59</sup>

Thus, the Commission’s apparent assumption in the *Order* is that the merger of T-Mobile and Sprint is a run-of-the-mill transaction that does not pose any significant roaming-related competitive concerns, and that, therefore, small rural carriers should be satisfied that their roaming arrangements with New T-Mobile will be well-policed by the Commission’s established roaming rules. This assumption is not credible, and warrants reconsideration.

The proposed transaction is a unique event that, absent conditions imposed by the Commission, will radically transform the dynamics of roaming arrangements faced by small rural carriers. Specifically, the essential fact—which is not referenced or considered in the Commission’s decision—is that New T-Mobile will have little if any incentive to maintain or extend roaming agreements with small rural carriers on commercially reasonable terms.

Currently, Sprint has strong incentives to maintain commercially reasonable roaming

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<sup>58</sup> *Id.* at ¶ 298.

<sup>59</sup> *Id.* at ¶ 297.

agreements with small rural carriers, because it lacks “the low-band spectrum necessary to provide coverage outside of urban areas.”<sup>60</sup> Sprint’s incentives will become irrelevant after the proposed transaction is consummated because T-Mobile currently has extensive low-band spectrum licenses.<sup>61</sup> The record makes abundantly clear that, given T-Mobile’s access to low-band spectrum, it has shown little interest in being a reliable roaming partner committed to negotiating and adhering to commercially reasonable agreements. It has proven to be economically efficient for nationwide carriers to serve profitable areas while denying or throttling their own customers’ access to rural wireless networks, while at the same time increasing the cost of rural carriers’ access to roaming.<sup>62</sup>

While failing to come to grips with the dire competitive implications of this changed circumstance posed by the proposed transaction, the Commission does make a passing reference to the Applicants’ promise to offer “preferred roaming partner” arrangements, suggesting that this promise provides a basis for its refusal to impose any roaming-related conditions on its approval of the transaction.<sup>63</sup> The Commission would be less confident of its reliance on the Applicants’ promise if it had considered these concerns and evidence presented by the Petitioners:

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<sup>60</sup> *Id.*, Statement of Commissioner Geoffrey Starks (“Starks Statement”). Sprint currently licenses 13.9 megahertz of low-band spectrum. *Twentieth Report*, 32 FCC Rcd at 8995 (Table II.E.3), *cited in* Starks Statement.

<sup>61</sup> T-Mobile currently holds licenses for 40.7 megahertz of low-band spectrum, nearly three times the amount held by Sprint. *See* Starks Statement (citing *Twentieth Report*).

<sup>62</sup> *See, e.g.*, Reply at 15 (stating that T-Mobile blocks and throttles its own customers when they are roaming on other carriers’ networks); RWA Petition at 13 (stating that “RWA members have reported that the voice and data roaming rates they currently pay to Sprint are one-twentieth (1/20th) of what they pay for comparable coverage and service to T-Mobile. If Sprint disappears and T-Mobile’s rates are adopted, roaming rates could go up by 1,900%, jeopardizing the ability of rural carriers to offer outbound roaming.”).

<sup>63</sup> *Order* at ¶ 297.

[W]hile Applicants promise to be the “preferred roaming partner” for rural carriers, these aspirational platitudes run counter to its detailed business and engineering plans which show that in the real world Applicants are not interested in roaming in rural America. For example, in asserting merger “synergies,” the Joint Opposition notes “reductions in legacy Sprint’s network marginal cost (from reduced roaming fees).” This is probative evidence that New T-Mobile intends to limit roaming and preferred partner arrangements.<sup>64</sup>

Moreover, even if the preferred roaming partner agreements could be effective in providing commercially reasonable roaming agreements between New T-Mobile and small rural carriers—which they cannot—the Commission does not address how these small rural carriers will be able to secure commercially reasonable roaming agreements with New T-Mobile in the future, when existing agreements expire. The Commission chooses to ignore the risks that this seminal transaction poses for small rural carriers that will be seeking commercially reasonable roaming agreements with New T-Mobile—and instead seeks to reassure these carriers by observing that, if these carriers “encounter[ ] difficulties in obtaining reasonable roaming services or roaming rates” they can file complaints with the Commission.<sup>65</sup>

The Commission would be less confident of its reliance on its complaint process if it had considered the Petitioners’ concern that this process can be “fairly difficult, expensive, and lengthy[,]”<sup>66</sup> and that, even more significantly:

Small carriers are at a tremendous disadvantage because just the act of filing a complaint with the FCC risks their roaming relationships with much larger carriers, allowing the largest carriers to dictate terms and conditions in a fashion that would not otherwise occur if the two parties had relatively even bargaining power.<sup>67</sup>

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<sup>64</sup> Reply at 15-16 (footnotes omitted).

<sup>65</sup> *Order* at ¶ 297.

<sup>66</sup> Petition to Deny at 40.

<sup>67</sup> *Id.* at 40-41.

These concerns apply with heightened force to the proposed transaction because, as the Petitioners have explained, in the absence of roaming-related conditions, New T-Mobile will have a powerful incentive as well as the virtually unchecked capability to dictate roaming arrangements to serve its own interests, or to avoid even entering into roaming agreements.

Finally, the Commission should reconsider its conclusion that the phase-out of CDMA networks is not a transaction-related issue. The Applicants have strong economic incentives to decommission Sprint's CDMA network as soon as possible, and they have made the decision to shut down Sprint's CDMA network on an accelerated schedule, earlier than Sprint's original plan.<sup>68</sup>

The proposed transaction therefore poses a direct threat to Petitioner Pioneer, which has made long-term capital investments based on a reasonable expectation that Sprint would adhere to its plan to maintain its CDMA network.<sup>69</sup> Given that the proposed transaction will upend the Sprint plan, the Commission should conclude that the phase-out of CDMA networks is in fact a transaction-related issue, and that CDMA roaming-related conditions are warranted.

#### C. The Commission Should Adopt Roaming-Related Conditions

The Petitioners urge the Commission to reconsider its decision in the *Order*, and to impose a condition that New T-Mobile must provide nationwide roaming on commercially reasonable terms.<sup>70</sup> Given the importance of small rural carriers having the capability to offer nation-

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<sup>68</sup> See *Reply* at 23.

<sup>69</sup> *Id.*

<sup>70</sup> The *Verizon-Alltel Merger Order* provides ample precedent for the Commission to impose roaming conditions, especially since the proposed transaction will exert significant anti-competitive pressure on small rural carriers. See *Applications of Cellco Partnership d/b/a Verizon Wireless and Atlantis*

wide calling plans to their local customers, and to provide service to incoming roamers, the Petitioners renew their proposal in the Petition to Deny that the roaming condition remain in effect for a period of 10 years.

The specific requirements that should be included in the roaming condition are those recommended in the Petition to Deny,<sup>71</sup> which are summarized as follows:

- New T-Mobile must honor Sprint’s existing roaming agreements with the Petitioners.
- Each Petitioner having an existing agreement with Sprint has the option to rates and terms in effect for the full term of the agreement.
- Each Petitioner currently having roaming agreements with both T-Mobile and Sprint has the option to select either agreement to govern its roaming traffic.
- New T-Mobile may not unilaterally adjust rates specified in Sprint’s existing agreements with each Petitioner during the periods specified in the Petition to Deny.
- If there is no roaming agreement in effect between Petitioners and New T-Mobile at the time T-Mobile shuts down Sprint’s CDMA network, it must provide the Petitioners with a roaming agreement with terms and conditions that are (1) identical to those in a Petitioner’s roaming agreement with Sprint, or (2) equivalent to, or better than, those then in effect with AT&T for 4G LTE and 5G traffic.
- The roaming condition shall include the following procedural requirements:
  - If New T-Mobile restricts roaming on Petitioners’ networks or takes other adverse actions (*e.g.*, throttles, caps, or blocks its customers’ data throughput when roaming on Petitioners’ networks), Petitioners will have the option to bypass otherwise applicable procedures in Section 20.12 of the Commission’s rules, and present evidence of New T-Mobiles misconduct to the Wireless Telecommunications Bureau

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*Holdings LLC*, 23 FCC Rcd 17444, 17524 (2008) (“*Verizon-Alltel Merger Order*”); *id.* at 17563, Statement of Chairman Kevin J. Martin (indicating that “[w]ith respect to roaming, the commitment proposed by Verizon Wireless to extend its roaming obligations provides added certainty to small and rural carriers. In addition, Verizon Wireless has made additional commitments with respect to continuing the Alltel GSM network and allowing carriers to choose which roaming agreement to continue. This should all help smaller, rural and regional carriers providing roaming to their consumers.”); Petition to Deny at 43.

<sup>71</sup> Petition to Deny at 43-44.

for mediation.

- If the Petitioners demonstrate by a preponderance of evidence that New T-Mobile has imposed restrictions or taken other adverse actions, then the Bureau will have authority to immediately enjoin New T-Mobile from continuing this conduct, pending the Commission's resolution of a formal complaint pursuant to Section 20.12.

CONCLUSION

For all the reasons set forth above, the Petitioners respectfully request the Commission to grant this Petition for Reconsideration, and to take the actions recommended in this Petition.

Respectfully submitted,

By:   
\_\_\_\_\_

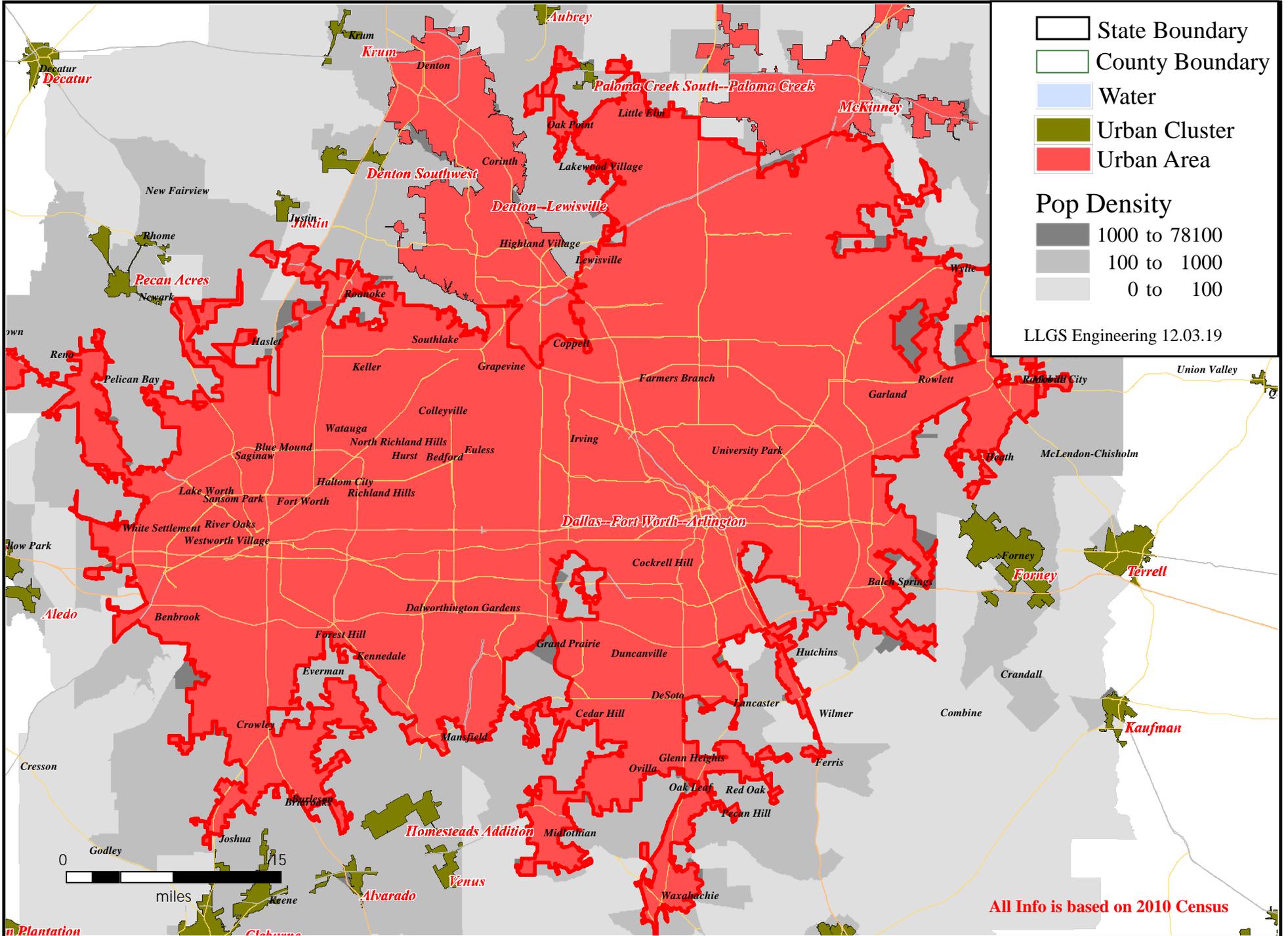
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December 5, 2019

**ATTACHMENT**

# Dallas--Fort Worth--Arlington Urban Area and Pop Density Map



Plantation

Alvarado

Homesteads Addition

Venus

All Info is based on 2010 Census



## **DECLARATION**

## DECLARATION OF ALI KUZEHKANANI

I, Ali Kuzehkanani, declare the following:

1. I am a Telecommunications Electrical Engineer and employed by the firm of Lukas, LaFuria, Gutierrez & Sachs, LLP.
2. I graduated from George Washington University, Washington, D.C., with a Bachelor of Science degree in Electrical Engineering.
3. In my current position at Lukas, LaFuria, Gutierrez & Sachs, LLP, I have provided engineering counsel and support relating to a wide range of spectrum-related and telecommunications-related matters for more than twenty years.
4. I prepared the document, titled "Dallas-Fort Worth-Arlington Urban Area and Pop Density Map," in the Attachment to this Petition for Reconsideration. To create the map, I used the publicly available data from Census bureau's website (<https://www.census.gov/programs-surveys/geography/geographies.html>).
5. The attached map depicts the boundaries of the census-defined urbanized areas and urban clusters near Dallas. Also shown on the map is the thematic depiction of the population density near the Dallas-Fort Worth-Arlington Urbanized Area. The population density was calculated for the census block group areas near the Dallas-Fort Worth-Arlington Urban Area by dividing the population of an individual census block group by its area. The population density was depicted for three different levels: (1) pop density of 0-100 pop/square miles, (2) pop density of 100-1000 pop/square miles, and (3) pop density of greater than 1000 pop/square miles.
6. The above statements are true and correct to the best of my knowledge and belief.

By: 

Ali Kuzehkanani  
Director of Engineering  
Lukas, LaFuria, Gutierrez & Sachs, LLP

Dated: December 5, 2019

**CERTIFICATE OF SERVICE**

## CERTIFICATE OF SERVICE

I, David LaFuria, certify that on December 5, 2019, a copy of the Petition for Reconsideration attached hereto was sent via US Postal Service mail to the following:

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