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March 11, 2013

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VIA HAND DELIVERY

Marlene H. Dortch
Federal Communications Commission
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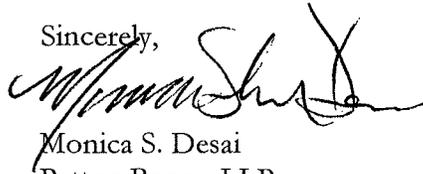
Re: Applications of Deutsche Telekom AG, T-Mobile USA, Inc. and MetroPCS Communications, Inc. For Consent to Assign or Transfer Control of Licenses and Authorizations, WT Docket No. 12-301, Notice of Ex Parte

Dear Ms. Dortch:

On behalf of the Communications Workers of America (“CWA”), pursuant to the procedures outlined in the Second Protective Order adopted in the above referenced proceeding, please find enclosed an original and one copy of CWA’s Public version of its Notice of Ex Parte filed in the aforementioned docket. A Highly Confidential version is being filed separately with the Secretary’s Office. Additionally, copies of the Highly Confidential version are being delivered to the Wireless Telecommunications Bureau.

Should you have any questions concerning the foregoing request, please contact the undersigned.

Sincerely,



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Ms. Marlene H. Dortch, Secretary
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Re: **Notice of Ex Parte**
Applications of Deutsche Telekom AG, T-Mobile USA, Inc., and MetroPCS
Communications, Inc. for Consent to Assign Licenses, WT Docket No. 12-301.

Dear Ms. Dortch:

The Applicants in the above-referenced proceeding have continually characterized the proposed Transaction as one of growth and opportunity. The Communications Workers of America (“CWA”) has, from the beginning, made clear that it supports this goal and hopes that the proposed Transaction does lead to growth and opportunity for the post-transaction company.¹ CWA’s sole purpose in this proceeding has been to ensure that the proposed Transaction also provides growth and opportunity for the employees in the post-transaction company. CWA had hoped the Commission’s review of the proposed Transaction would bring to light – for the Applicants’ employees and the public – the Applicants’ post-transaction plans with respect to jobs, and provide assurances that the proposed Transaction will not result in significant service-impacting job cuts. Unfortunately, it has not. To the contrary, CWA stands by its filing of March 4, 2013, explaining that the job impact of the proposed Transaction is significant.² In that filing, CWA pointed out through document after document that the Applicants’ initial claims of job growth, and newer assertions of a “relatively small number” of job losses, are simply not supported by the facts.

In response to CWA’s detailed filing, the Applicants now ask the Commission to believe that the plans for job cuts reflected in their own documents are, alternatively, “isolated,” related to a “different transaction,” or, simply, just mean something other than their plain language.³ They ask the Commission to believe in magical synergies that do not have any impact on jobs, despite direct and indirect references in their documents to the contrary.

¹ See Comments of CWA, WT Docket No. 12-301, filed Nov. 26, 2012.

² See Letter from Monica Desai, Counsel for CWA, to Marlene H. Dortch, Secretary, FCC, Notice of Ex Parte, WT Docket No. 12-301, dated March 4, 2013 (“CWA March 4 Ex Parte”).

³ See, Letter from Nancy Victory, Counsel for Deutsche Telekom AG and T-Mobile USA, Inc., and Carl Northrop, Counsel for MetroPCS Communications, Inc., to Marlene H. Dortch, Secretary, FCC, *Ex Parte* Letter, WT Docket No. 12-301, 2-5, dated March 7, 2013 (“Applicants’ March 7 Ex Parte”).

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The Commission should ask why the Applicants are so unwilling to provide a voluntary commitment backing up their statements that it is “outlandish” to think the Applicants will eliminate thousands of jobs. Instead, the Applicants ask the FCC to close its eyes to the confidential documents and simply believe that the numbers in those documents are meaningless. Further, they do not respond to the line-by-line queries that CWA urges the FCC to pursue. Yet they ask for “flexibility” to retract from these public promises after the transaction closes, vaguely asserting that they “have made no decisions on post-merger integration.”⁴ The Applicants cannot have it both ways. Either the 11,000+ documents submitted by the Applicants speak for themselves or they don’t. It is not in the public interest for the Commission to allow a transaction to proceed based on such hollow promises. CWA believes their refusal to back up their public assertions with enforceable commitments is because, in actuality, their documents do reflect their true plans. These documents are the only solid evidence reflecting what [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL]⁵

Notably, the Applicants have not pointed to a single document that supports their claims of “increased employment opportunities.” And they have not pointed to a single document that supports their claims that the direct job cut numbers CWA cites are overstated. They now provide a new affidavit simply suggesting, among other things, that the Applicants have changed their minds about the numbers in the documents, and that the Commission should not believe the numbers in their own documents. They would have the Commission believe, for example, that even though multiple documents clearly reflect that the Applicants will cut [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL], the Applicants will actually only cut [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL], because, they now assert, the underlying documents are “actually overstated.”⁶ CWA does not find this at all comforting.

⁴ Applicants’ March 7 Ex Parte at 6.

⁵ Applicants’ March 7 Ex Parte at n.19.

⁶ See Applicants’ March 7 Ex Parte at 5 and “Declaration of Peter Ewens.” The references to [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL] and various iterations of T-Mobile’s financial model for the Transaction. See, e.g., [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL] It is troubling that the Applicants would simply take back and revise a number reflecting significant job cuts, a number which represents a material portion of projected synergy values disclosed to the FCC as well as to investors. On the [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL]

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On March 8, 2013, CWA participated by phone in a series of ex parte discussions with FCC staff. In various conversations, Monica Desai, outside counsel to CWA, spoke with (1) Nicholas Degani and Courtney Reinhard, Legal Advisors to Commissioner Pai; (2) Louis Peraertz, Legal Advisor to Commissioner Clyburn; (3) Renee Gregory, Legal Advisor to Chairman Genachowski; (4) David Goldman, Legal Advisor to Commissioner Rosenworcel, and (5) the following staff of the Wireless Telecommunications Bureau: Jim Schlichting, David Hu, Monica DeLong, and Linda Ray. Randy Barber, outside economic consultant to CWA, joined the discussions with Chairman Genachowski's staff and with the Wireless Bureau staff. Debbie Goldman, Telecommunications Policy director for CWA, joined portions of the meetings with Commissioner Clyburn's staff and with Chairman Genachowski's staff to discuss public information, but exited the portions of the meetings when confidential information was discussed. In addition, on March 7, Monica Desai and Debbie Goldman participated in a discussion with Commissioner Clyburn, Dave Grimaldi, Chief of Staff and Legal Advisor to Commissioner Clyburn, and Louis Peraertz, Legal Advisor to Commissioner Clyburn. In those meetings, CWA discussed the process point that the proposed Transaction is too large and impactful to be handled at the Bureau level rather than at the Commission level, and the substantive points detailed below.

This Transaction is Too Large and Controversial to Be Handled at the Bureau Level

CWA understands that the FCC may be considering issuing an order on the proposed Transaction at the Bureau level instead of the Commission level. This, however, would be improper and inconsistent with FCC precedent. This \$30 billion proposed Transaction, involving an estimated combined workforce of 38,000 positions, is larger than many transactions previously handled at the Commission level, and larger than transactions typically handled at the Bureau level.⁷ 62 members of Congress have asked the FCC to protect jobs in the proposed Transaction.⁸ CWA's concerns over the proposed Transaction's impact on jobs are also shared by multiple public interest organizations, including the NAACP, AFL-CIO, Service Employees International Union, Sierra Club, Alliance for

⁷ See Letter from John Paulson, Paulson & Co. Inc., to Members of the Board of Directors, MetroPCS Communications Inc., and Members of the Supervisory Board, Deutsche Telekom AG, 5, dated Feb. 28, 2013 (listing the proposed Transaction's value as approximately \$29.7 billion). That value is in line with or larger than the values of many transactions previously handled at the Commission level. See, e.g., *Sprint Nextel Corporation and Clearwire Corporation Applications for Consent to Transfer Control of Licenses, Leases, and Authorizations*, Memorandum Opinion and Order, WT Docket No. 08-94, 23 FCC Rcd 17570, ¶ 9 (Nov. 7, 2008) (listing transaction value of approximately \$14.5 billion); *Applications of ALLTEL Corporation, Transferor, and Atlantis Holdings LLC, Transferee, for Consent to Transfer Control of Licenses, Leases and Authorizations*, WT Docket No. 07-128, Amended Description of the Transaction and Public Interest Statement, 3 (June 20, 2007) (listing transaction value of approximately \$27.5 billion); *Applications of AT&T Inc. and Dobson Communications Corporation for Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, WT Docket No. 07-153 22 FCC Rcd 20295, ¶ 6 (Nov. 19, 2007) (listing transaction value of approximately \$2.8 billion); *Applications of Guam Cellular and Paging, Inc. and DoCoMo Guam Holdings, Inc. for Consent to Transfer Control or Licenses and Authorizations, et al.*, Memorandum Opinion and Order, WT Docket No. 06-96, 21 FCC Rcd 13580, ¶ 9 (Nov. 13, 2006) (listing transaction value of approximately \$71.8 million).

⁸ See Letter from Members of Congress to the Honorable Julius Genachowski, Chairman, FCC, WT Docket No. 12-301, dated March 1, 2013.

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Retired Americans, Center for Community Change, National Consumers League, Jobs with Justice, and USAction.⁹ Additionally, numerous mayors, state representatives, and county public officials have voiced similar concerns regarding the threat of job cuts and accelerated outsourcing of jobs outside the U.S. that could result if the proposed Transaction is approved absent enforceable jobs commitments from the Applicants.¹⁰ CWA urges the FCC to act in accordance with its precedent and afford the proposed Transaction the appropriate Commission-level review.

[BEGIN HIGHLY CONFIDENTIAL]

[END HIGHLY CONFIDENTIAL]

In particular, the Applicants attempt to marginalize their own document, dated [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL], which references a [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] resulting in [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL]

⁹ See Reply Comments of AFL-CIO, *et al.*, WT Docket No. 12-301 (Dec. 17, 2012); Letter from David Hansen, Interfaith Worker Justice Kansas, to the Honorable Julius Genachowski, Chairman, FCC, WT Docket No. 12-301, dated January 23, 2013.

¹⁰ See Letter from Joseph P. Riley, Jr., Mayor, City of Charleston, South Carolina, to the Honorable Julius Genachowski, Chairman, FCC, WT Docket No. 12-301, dated Dec. 5, 2012 (“I have learned that MetroPCS outsources all its call centers, some located overseas. T-Mobile recently closed seven U.S. call centers and displaced 3,300 employees, while contracting with offshore call centers to perform similar work. T-Mobile and MetroPCS have announced anticipated \$6-7 billion in merger-related savings, including customer support. These facts raise concerns about the employment future of T-Mobile works in my city. Our city cannot afford a merged T-Mobile/MetroPCS which closes its call center and retail stores here, and transfers the work to MetroPCS’ call center vendor, or to one of T-Mobile’s overseas operations.”); Letter from Bob Buckhorn, Mayor, City of Tampa, Florida, to the Honorable Julius Genachowski, Chairman, FCC, WT Docket No. 12-301, dated Dec. 10, 2012; Letter from Dwight C. Jones, Mayor, City of Richmond, Virginia, to the Honorable Julius Genachowski, Chairman, FCC, WT Docket No. 12-301, dated Dec. 12, 2012; Letter from Rep. Brenda Gilmore, State Representative, Tennessee, to the Honorable Julius Genachowski, Chairman, FCC, WT Docket No. 12-301, dated Feb. 12, 2013; Letter from Rep. Darren Jernigan, State Representative, Tennessee, to the Honorable Julius Genachowski, Chairman, FCC, WT Docket No. 12-301, dated Feb. 12, 2013; Letter from Rep. Harold M. Love, Jr., State Representative, Tennessee, to the Honorable Julius Genachowski, Chairman, FCC, WT Docket No. 12-301, dated Feb. 6, 2013; Letter from Rep. Jason Powell, State Representative, Tennessee, to the Honorable Julius Genachowski, Chairman, FCC, WT Docket No. 12-301, dated Feb. 12, 2013; Letter from Rep. Johnny W. Shaw, State Representative, Tennessee, to the Honorable Julius Genachowski, Chairman, FCC, WT Docket No. 12-301, filed Feb. 13, 2013; Letter from Rep. Sherry Jones, State Representative, Tennessee, to the Honorable Julius Genachowski, Chairman, FCC, WT Docket No. 12-301, dated Jan. 29, 2013; Letter from A. Victor Rawl, Charleston County Council, to the Honorable Julius Genachowski, Chairman, FCC, WT Docket No. 12-301, filed Feb. 21, 2013; Letter from Rep. Bo Mitchell, State Representative, Tennessee, to the Honorable Julius Genachowski, Chairman, FCC, WT Docket No. 12-301, filed March 7, 2013; Letter from Rep. Joe Towns, Jr., State Representative, Tennessee, to the Honorable Julius Genachowski, Chairman, FCC, WT Docket No. 12-301, dated Feb. 7, 2013; Letter from Rep. Mike Turner, State Representative, Tennessee, to the Honorable Julius Genachowski, Chairman, FCC, WT Docket No. 12-301, dated March 6, 2013; Letter from Members of the House Democratic Caucus, Tennessee General Assembly, to the Honorable Julius Genachowski, Chairman, FCC, WT Docket No. 12-301, filed March 7, 2013.

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Contrary to the Applicants' assertions, the change in the proposed Transaction's [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL] does not make the Applicants' projection of [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL] irrelevant.

[BEGIN HIGHLY CONFIDENTIAL]
[REDACTED]
[END HIGHLY CONFIDENTIAL]

In two ex parte filings, the Applicants struggle to explain and minimize projected [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL] positions.¹⁵ Without any reference to underlying employment cost-related data, the Applicants assert that their projected synergies would likely result in a reduction of [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL]. This also raises serious questions that should be examined more closely by the FCC.¹⁶ Given that the Applicants' documents project [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL]¹⁷ this would appear to mean that each of the [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL] positions cut would have been receiving compensation of approximately [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL] – compared to T-Mobile's average company-wide compensation of approximately [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL].¹⁸ In its March 8 ex parte, T-Mobile changes the synergy savings from [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL].¹⁹ The Applicants then launch into a convoluted explanation of how different numbers are actually the same

[REDACTED]
[END HIGHLY CONFIDENTIAL]

¹⁵ See Applicants March 7 Ex Parte; Letter from Nancy Victory, Counsel for T-Mobile USA, Inc., to Marlene H. Dortch, Secretary, FCC, dated March 8, 2013 ("Applicants' March 8 Ex Parte").

¹⁶ See Applicants' March 7 Ex Parte at 5.

¹⁷ See CWA March 4 Ex Parte at 4.

¹⁸ The projected average for T-Mobile total compensation in 2012 was derived from [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL].

¹⁹ See Applicants' March 8 Ex Parte at 1-2 ([BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL])

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numbers.²⁰ Nowhere do the Applicants cite specific employee compensation data explaining actual numbers of job cuts, and none appears to have been provided by MetroPCS in its replies to the FCC's questions.²¹

The Commission should ask the Applicants to support their assertions by explaining how they project a reduction of only [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL] relative to their [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL] synergy savings.

[BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL] means [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL] — it does not mean [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL], or [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL], or some other number

Similarly, the Applicants' attempt to revise the number of [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL] positions projected to be eliminated in their own documents calls into question the reliability of their overall characterization of the proposed Transaction's employment impact. While the Applicants concede that their documents project a reduction of [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL], they now assert that those numbers are "actually overstated" and that the proposed Transaction would only result in the elimination of [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL] positions.²² This assertion calls into question the reliability of not only this specific projection but of all of the projections submitted by the Applicants to the FCC.

²⁰ See Applicants' March 8 Ex Parte at 2 ("A presentation related to the synergies model (and cited by CWA in its March 4, 2013 *ex parte*) represents that the Applicants will realize an estimated [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL] These figures are consistent with those in the paragraph above, but were derived by rounding [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL] Specifically, these estimates were derived by rounding [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL])

²¹ As described in CWA's March 4 *ex parte*, T-Mobile did provide [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL] See CWA March 4 Ex Parte at n.15.

²² See Applicants' March 7 Ex Parte at 5.

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If the Applicants knew that the number of [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [REDACTED] [END HIGHLY CONFIDENTIAL] would be lower, why did the Applicants not incorporate these lower numbers into the synergy projections that they presented to investors and the FCC? If such cornerstone numbers can be changed, the FCC should examine what other numbers may be equally unreliable. Indeed, how can the FCC or the public evaluate the true nature and impact of the propose Transaction if, when challenged on specific numbers, the Applicants simply assert that the numbers provided to the FCC are not the true numbers?

Offshoring Plans

The Applicants' assertion that their documents reflect that they have no plans to move call centers offshore raises more questions than it answers.²³ Immediately after making this assertion, the Applicants provide themselves with an obvious loophole, stating that "the Applicants have made no decisions on post-merger integration" and citing to a document that provides that [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL]²⁴ Given this open-ended loophole that would allow the Applicants to completely change their offshoring plans post-transaction, how can the FCC or the public be expected to rely on the Applicants' current promises?

Moreover, the Applicants assert only that they "have no plans to move existing T-Mobile USA call centers offshore."²⁵ A T-Mobile spokesman has further asserted that "we [T-Mobile] have repeatedly stated and reiterated that we have no plans to move call centers offshore or to reduce employment levels *at those call centers*. Over the last six months, T-Mobile has hired more than 3,600 employees in our 17 domestic call centers and we plan to continue hiring in all of our call centers, increasing the number of overall positions, to support our customers."²⁶ This careful wording, however, does not make clear which post-transaction call centers T-Mobile is referring to when it promises to "continue hiring." Further, the Applicants' attempt to characterize the document reflecting T-Mobile's [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL] as irrelevant fails to address CWA's question of whether the Applicants plan to offshore MetroPCS call center work post-transaction.²⁷ The Applicants again evade questions regarding the jobs-reducing synergies reflected in their confidential documents and pointed out by CWA. These questions remain unanswered and should be more closely examined by the FCC.

²³ See Applicants' March 7 Ex Parte at 3, 6.

²⁴ Applicants' March 7 Ex Parte at 6, n.19 (emphasis added).

²⁵ Applicants' March 7 Ex Parte at 6.

²⁶ See Paul Kirby, *DT, T-Mobile, MetroPCS Respond to CWA Job Loss Suggestions*, TR Daily, March 7, 2013 (emphasis added).

²⁷ See CWA March 4 Ex Parte at 9.

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Magical Synergies

The Applicants project non-network synergies of approximately \$1 billion NPV.²⁸ Rather than responding directly to the questions raised in CWA's March 4 ex parte regarding these synergies, however, the Applicants choose to distract the Commission by rebutting straw man arguments not raised by CWA in the first place. For example, the Applicants opaquely assert that their "synergies model assumes no reductions in retail stores or retail store positions."²⁹ The job cuts that CWA pointed to through the confidential documents did not result from reductions in retail stores or retail store positions. The Applicants avoid addressing CWA's explicit concerns regarding various other categories of synergies projections and instead imply that none exist.³⁰

Two examples reflect that the categories identified by CWA appear to contain a "specific labor component," but the Applicants do not want to be forced to disclose such components. For example, the [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL] will clearly have a capitalized labor component. Also, in the T-Mobile [BEGIN HIGHLY CONFIDENTIAL] [REDACTED]

[REDACTED] [END HIGHLY CONFIDENTIAL]

²⁸ See *Applications of Deutsche Telekom AG, T-Mobile USA, Inc., and MetroPCS Communications, Inc. for Consent to Assign or Transfer Control of Licenses and Authorizations*, WT Docket No. 12-301, Description of Transaction, Public Interest Showing, and Related Demonstrations, 42-44 (Oct. 18, 2012).

²⁹ Applicants' March 7 Ex Parte at 3.

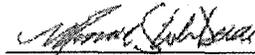
³⁰ "The other synergies figures identified by CWA do not contain a labor component and thus do not reflect any savings from job reductions." See Applicants' March 7 Ex Parte, Declaration of Peter Ewens, ¶ 4.

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CWA stands by its March 4 ex parte and urges the Commission to require the Applicants to respond to the queries posed by CWA in that filing.

Respectfully submitted,



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