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January 7, 2013

VIA ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554

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*

Dear Ms. Dortch:

Deutsche Telekom AG ("DT") and T-Mobile USA, Inc. ("T-Mobile USA") (collectively, "Applicants") object in part to disclosure of the confidential and highly confidential information in their January 7, 2013 response ("Response")[1] to the Commission's December 20, 2012 Information and Discovery Request ("Information Request")[2] to the Communications Workers of America ("CWA"), including CWA's outside counsel and outside economic consultant. Because CWA has raised only post-transaction employment-related issues in its Comments and Reply Comments in this proceeding, its access to confidential and highly confidential information should be limited to the portion of the Response addressing Specification 7(f), which addresses employment at the post-transaction entity. There is no basis for CWA's representatives to gain access to the remainder of the confidential and highly confidential information in the Response, which contains extremely competitive sensitive data on a wide variety of topics not addressed by CWA in this proceeding.

The Information Request enumerates 16 specifications and related subparts, covering a wide range of issues such as the Applicants' plans for network

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[1] Letter from Nancy J. Victory, Wiley Rein LLP, to Marlene H. Dortch, Secretary, Federal Communications Commission, WT Docket No. 12-301 (Jan. 7, 2013) ("Response").

[2] Letter from Ruth Milkman, Chief, Wireless Telecommunications Bureau, to Dan Menser, T-Mobile License LLC, WT Docket No. 12-301 (Dec. 20, 2012) ("Information Request").

integration, expansion of service, and competitive changes to service plans and pricing. The Applicants' Response to the Information Request, submitted herewith, provides narrative descriptions, documents and data responsive to all specifications and requests, including very granular and extremely competitively sensitive information covering virtually all categories of highly confidential information described in Appendix A to the Second Protective Order.[3] Accordingly, the vast majority of the information submitted in the Response was marked as confidential or highly confidential.

DT and T-Mobile USA do not oppose access by CWA's outside counsel and outside consultant to the portion of the Response addressing Specification 7(f), as that specification seeks information "on employment at Newco post-transaction."[4] CWA's Comments and Reply Comments in this proceeding discuss jobs and employment at the post-transaction entity, so any response to Specification 7(f) is relevant CWA's advocacy on this issue.[5] However, CWA's filings are limited solely to the issue of employment, which plainly has no nexus to the vast majority of the Response. Further, the comment period for the proceeding is now closed, ending the opportunity for commenters to timely raise new issues.[6] Because CWA

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[3] Second Protective Order, WT Docket No. 12-301, DA 12-1665 (WTB rel. Oct. 17, 2012) ("Second Protective Order"). Appendix A enumerates the categories of the information that constitutes a submitting party's "most sensitive business data which, if released to competitors or those with whom the Submitting Party does business, would allow those persons to gain a significant advantage in the marketplace or in negotiations . . . ." Second Protective Order, ¶ 2.

[4] Information Request at 3.

[5] *See* Comments of Communications Workers of America, WT Docket No. 12-301 (Nov. 26, 2012); Reply Comments of Communications Workers of America, WT Docket No. 12-301 (Dec. 17, 2012).

[6] *See Deutsche Telekom AG, T-Mobile USA, Inc. and MetroPCS Communications, Inc. Seek FCC Consent to the Transfer of Control of PCS Licenses and AWS-1 Licenses and Leases, One 700 MHz License, and International 214 Authorizations Held by MetroPCS Communications, Inc. and by T-Mobile USA, Inc. to Deutsche Telekom AG*, Public Notice, WT Docket No. 12-301, DA 12-1730 (Oct. 26, 2012) ("**[p]etitioners and commenters should raise all issues in their initial filings. New issues may not be raised in responses or replies.**") (emphasis in original).

has not timely raised competitive issues, network issues, or any other issues covered by the Information Request's remaining specifications and requests, CWA's access to confidential and highly confidential information should be limited to the portion of the Response addressing Specification 7(f). Given these facts, there is no basis for CWA's representatives to gain access to the remainder of the confidential and highly confidential information in the Response, which contains very competitively sensitive data and information.

To provide CWA with access to the entire unredacted Response would run counter to the purpose of the Protective Order and Second Protective Order governing this proceeding. These orders limit use of confidential and highly confidential information "solely for the preparation and conduct of this proceeding"; such information cannot be used "for any other purpose."[7] As noted above, the time period for interested entities to raise issues in this proceeding has now passed, the only issue raised by CWA pertains to the impact of the transaction on jobs at the combined company, and the vast majority of the confidential and highly confidential information in the Response is not in any way relevant to that issue. Accordingly, the Commission should limit CWA's access to the Response to the portion addressing Specification 7(f). It should not allow CWA to access the remainder of the Response, as such access would not advance the conduct of this proceeding.

For these reasons, the Applicants respectfully ask the Commission to sustain this objection and limit CWA's outside counsel and outside economic consultant's access to the confidential and highly confidential information in the portion of the Response addressing Specification 7(f). Further access to the unredacted Response should be denied.

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[7] *See* Protective Order, WT Docket No. 12-301, DA 12-1664, ¶ 7 (WTB rel. Oct. 17, 2012); Second Protective Order ¶ 10.

Respectfully submitted,

/s/ Nancy J. Victory

Nancy J. Victory
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