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July 26, 2019

**VIA ULS**

Donald Stockdale  
Chief, Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: DBSD Corporation, AWS-4, Lead Call Sign T070272001; Gamma Acquisition L.L.C., AWS-4, Lead Call Sign T060430001; Manifest Wireless L.L.C., Lower 700 MHz E Block, Lead Call Sign WQJY944; American H Block Wireless L.L.C., H Block, Lead Call Sign WQTX200; ParkerB.com Wireless L.L.C., 600 MHz, Lead Call Sign WQZM232

Dear Mr. Stockdale:

The Commission has called on government and industry to work together to promote American leadership in 5G. We share the Commission's 5G goals. DISH has a long history as a market disruptor and low-cost provider, particularly for customers in rural America. In the 1990s, we introduced competition against cable providers by offering disruptive pricing and packaging and innovative consumer technology, which helped us quickly gain market share. In 2015, DISH launched the first live-streaming over-the-top service, Sling TV. Sling TV has been a market leader, providing consumer choice and additional competition in the pay-TV market. As we have described previously, DISH plans to enter the wireless market as a new nationwide facilities-based provider.<sup>1</sup> We believe our deployment will promote U.S. leadership in 5G through an American company with a proven track record of disrupting the communications industry.

We also see a path to accelerate DISH's competitive entry into the wireless market. In addition to our anticipated acquisition of Boost Mobile and other assets, the modified deadlines, commitments, and conditions set forth in Attachment A align our deployment plans with the

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<sup>1</sup> See DBSD Services Limited, Gamma Acquisition L.L.C., and Manifest Wireless L.L.C.'s Consolidated Interim Construction Notification for AWS-4 and Lower 700 MHz E Block Licenses, ULS Lead File No. 0007690535 (Mar. 7, 2017); American H Block Wireless L.L.C. Interim Construction Notification for H Block Licenses, ULS Lead File No. 0008210492 (May 14, 2018); Letter from Jeffrey H. Blum, Senior Vice President, Public Policy & Government Affairs, DISH Network Corporation, to Donald Stockdale, Chief, Wireless Telecommunications Bureau, attached to license record for AWS-4 call sign T070272001 (Sept. 21, 2018).

expected finalization of 5G standards and equipment, and will facilitate and expedite DISH's entry into the wireless market as a nationwide facilities-based competitor.

DISH therefore requests that the Commission extend the construction deadlines associated with its AWS-4, 700 MHz E Block, and AWS H Block licenses as enumerated in Section I (C), (E), and (G) of Attachment A, pursuant to its authority under 47 U.S.C. § 308.<sup>2</sup> As conditions of the grant of the requested extensions, DISH is willing to accept the terms of Attachment A, including the significant voluntary contributions (up to \$2.2 billion) and potential license forfeitures for failure to meet certain commitments. DISH will also consent to the Commission including a "5G Broadband Service"<sup>3</sup> obligation as a special condition of its 600 MHz, AWS-4, 700 MHz E Block, and AWS H Block licenses. Further, DISH will consent to the sale and leasing restrictions described in Attachment A for its 600 MHz and AWS-4 spectrum licenses.

Grant of the requested extensions and adopting the terms set out in Attachment A will promote the Commission's public interest objectives by enabling and accelerating DISH's facilities-based wireless deployment. DISH's entry will pressure incumbent carriers to expand their own 5G plans and inject disruptive pricing and packaging in the wireless market, all to the benefit of the American public. In addition, the modified deadlines reflected in Attachment A will align DISH's construction milestones with our deployment goals, leading to a more efficient network build.

These commitments will ensure that (1) DISH's nationwide 5G deployment meets certain specifications; (2) DISH deploys a 5G Broadband Service on its AWS-4, 700 MHz E Block, and AWS H Block spectrum licenses on an aggressive schedule; (3) DISH deploys a 5G Broadband Service on its 600 MHz spectrum licenses on an accelerated timeline; and (4) DISH adheres to certain restrictions on its ability to sell or lease network capacity on its AWS-4 and 600 MHz spectrum. These commitments will be enforced through strong verification measures, including significant voluntary contributions and potential license forfeitures for missed commitments. Moreover, aligning the milestones for DISH's spectrum bands is in the public interest because doing so will enable DISH to deploy its spectrum at the same time to provide a better overall 5G service, at lower cost, and on a more efficient deployment schedule.

### **Nationwide 5G Broadband Commitment**

DISH plans to deploy a first-of-its-kind 5G network built from the ground up with an architecture that can take full advantage of expected 5G functionality. In furtherance of this goal, DISH will commit to concrete milestones related to its 5G deployment. In particular, DISH

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<sup>2</sup> DISH recognizes that some of the terms of Attachment A may require modifications under 47 U.S.C. § 316. If the requested extensions are granted, DISH will not protest the modifications the Commission makes to its licenses in order to effectuate the terms of Attachment A.

<sup>3</sup> "5G Broadband Service" is defined as at least 3GPP Release 15 capable of providing Enhanced Mobile Broadband (eMBB) functionality.

will commit that by **June 14, 2023**, it will deploy a nationwide 5G network using DISH's spectrum with:

- At least 70% of the U.S. population having access to download speeds equal to or greater than 35 Mbps, as verified by a drive test;
- At least 15,000 5G sites deployed; and
- At least 30 MHz of DISH's downlink 5G spectrum averaged over all DISH 5G sites deployed nationwide.

By meeting these commitments, DISH will become a nationwide facilities-based wireless competitor deploying next-generation technology to benefit the public and U.S. leadership in 5G.

### **Commitment to Deploy 5G Broadband Service on AWS-4, 700 MHz E Block, and AWS H Block Spectrum Licenses**

DISH's AWS-4, 700 MHz E Block, and AWS H Block spectrum licenses are currently subject to construction deadlines of March 7, 2020 (for AWS-4 and 700 MHz E Block) and April 29, 2022 (for AWS H Block). Absent the conditions DISH is prepared to accept if granted the requested extensions, the licenses would be subject to the Commission's "flexible use" policies, which allow licensees to deploy any lawful technology to meet their construction milestones. To promote the Commission's broadband deployment goals and further U.S. leadership in 5G, DISH will voluntarily waive its flexible use rights, and commit to deploy 5G Broadband Service using its AWS-4, 700 MHz E Block, and AWS H Block spectrum licenses. Specifically, DISH will consent to include a 5G Broadband Service obligation as a special condition of each such license.

DISH will further commit to deploy 5G Broadband Service by the following deadlines:

- **DISH 5G Broadband Service to At Least 20% of U.S. Population by 2022:**  
With respect to the AWS-4, 700 MHz E Block and AWS H Block licenses, DISH commits to offer 5G Broadband Service to at least 20% of the U.S. population and to have deployed a core network no later than June 14, 2022.
- **DISH 5G Broadband Service to At Least 70% of U.S. Population by 2023:**  
With respect to the AWS-4, 700 MHz E Block and AWS H Block licenses, DISH commits to offer 5G Broadband Service to at least 70% of the U.S. population no later than June 14, 2023.

### **Commitment to Deploy 5G Broadband Service on 600 MHz Spectrum Licenses on an Accelerated Timeline**

As a successful participant in the broadcast incentive auction, DISH holds 486 licenses in the 600 MHz band, with at least one license in each of the 416 Partial Economic Areas (PEAs) in the U.S. The 600 MHz spectrum licenses are subject to the Commission's flexible use policies, and have construction deadlines that do not come due until June 14, 2027 (interim construction milestone) and June 14, 2029 (final construction milestone). DISH will commit to deploy 5G

Broadband Service on each of its 600 MHz licenses ***four years earlier*** than required by the Commission's rules, and will consent to including a 5G Broadband Service obligation as a special condition of the licenses if granted the requested construction deadline extensions. Specifically, DISH will commit to meet the following accelerated deadlines:

- Using the 600 MHz licenses, offer 5G Broadband Service to at least 70% of the U.S. population no later than June 14, 2023.
- Using the 600 MHz licenses, offer 5G Broadband Service to at least 75% of the population in each PEA no later than June 14, 2025.

Through this substantial acceleration of the 600 MHz construction deadlines, DISH will put important low-band spectrum to use far sooner than originally required to offer 5G Broadband Service in all PEAs nationwide, to the benefit of Americans living in all parts of the country.

### **Restrictions on Sale of Licenses and Leasing Capacity**

In furtherance of DISH's goals to provide both competitive retail and wholesale wireless services, DISH will consent not to sell its AWS-4 and 600 MHz spectrum for six years without prior DOJ and FCC approval. DISH will also consent, for six years, not to lease, directly or indirectly, to any of the three largest wireless providers, or any combination thereof, traffic accounting for more than 35% of the network capacity on its 5G network without prior FCC approval. These restrictions will become effective on the date of an FCC order effectuating Attachment A. Such terms ensure that key spectrum assets remain in DISH's hands to support DISH's deployment. Further, they demonstrate DISH's commitment to entering the market, becoming a viable competitor, and remaining a nationwide wireless carrier for the long term.

### **Verification and Enforcement**

The commitments described above and enumerated in Attachment A will align DISH's deployment plans with the availability of 5G standards and the associated ecosystem, while accelerating our transformation to a next-generation communications company. DISH retains powerful business incentives to meet these obligations on time. But, to demonstrate our commitment to these terms, DISH will consent to rigorous verification and enforcement procedures, with severe financial contributions and potential license forfeitures for failure to meet the commitments.

Among other provisions, DISH will be required to file detailed status reports with the Commission, above and beyond what is required of licensees today. DISH will also be subject to verification using drive tests to ensure download speeds comply with the 35 Mbps metric, and will be required to submit to the Commission a number of detailed coverage maps and related data to demonstrate compliance with the June 2023 milestones.

Failure by DISH to meet these commitments will subject the company to up to \$2.2 billion in voluntary contributions and potential license forfeitures, with the contributions calculated separately for each commitment that is not met. For example, DISH's voluntary

contribution for failing to meet its 2022 commitments with respect to its AWS-4, 700 MHz E Block, and AWS H Block licenses will be calculated cumulatively by band, for a maximum voluntary contribution of \$200,000,000. DISH will also be subject to voluntary contributions if it fails to meet the 2023 Nationwide 5G Broadband commitment, based on the single highest missed percentage of any missed element. This contribution will be calculated by multiplying each percentage missed, rounded up to the nearest decimal, by \$10,000,000, for a maximum voluntary contribution of \$1 billion. In the event that DISH fails to meet the 2023 milestones related to its AWS-4, 700 MHz E Block, and AWS H Block licenses, the voluntary contributions will be calculated based on the missed percentage, with maximum voluntary contributions ranging from \$200,000,000 to \$600,000,000 per band.

This verification and enforcement structure provides powerful additional incentives for DISH to meet its 5G commitments, which substantially advance the public interest.

\* \* \*

The framework set out in Attachment A will facilitate and accelerate DISH's entry as a new nationwide facilities-based wireless provider, promote competition, and help ensure America's leadership in 5G, all to the benefit of American consumers and industry. For these reasons, among others, DISH and its wireless license-holding subsidiaries<sup>4</sup> hereby request, pursuant to the Commission's authority under 47 U.S.C. § 308, the construction deadline extensions set forth in Section I (C), (E), and (G) of Attachment A. We are willing to accept the conditions as set forth in Attachment A to the grant of our request for extensions of the construction deadlines. We recognize that some of the conditions may require modification of our licenses under 47 U.S.C. § 316 and we do not object to those modifications.

/s/ Jeffrey H. Blum  
Jeffrey H. Blum

Enclosure (Attachment A)

cc: David Lawrence

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<sup>4</sup> DISH's wireless licenses are held in indirect, wholly-owned subsidiaries as follows: ParkerB.com Wireless L.L.C. (holder of licenses in the 600 MHz band); Gamma Acquisition L.L.C. (holder of licenses in the AWS-4 band); DBSD Corporation (holder of licenses in the AWS-4 band); American H Block Wireless L.L.C. (holder of licenses in the AWS H Block); and Manifest Wireless L.L.C. (holder of licenses in the Lower 700 MHz E Block).

## ATTACHMENT A

### DISH NETWORK 5G BUILDOUT COMMITMENTS AND RELATED PENALTIES

#### **I. LICENSE MODIFICATIONS/EXTENSIONS**

- (A) DISH's existing Final 600 MHz Construction Milestone is accelerated to **6/14/2025**.
- (B) DISH's existing Interim 600 MHz Construction Milestone is suspended.
- (C) DISH's existing Final AWS-4 Construction Milestone is extended to **6/14/2023**.
- (D) DISH's AWS-4 Licenses are extended from **3/7/2023** to **6/14/2023**.
- (E) DISH's existing Final 700 MHz E Block Construction Milestone is extended to **6/14/2023**.
- (F) DISH's Lower 700 MHz E Block Licenses are extended from **3/7/2020** to **6/14/2023**.
- (G) DISH's existing Final AWS H Block Construction Milestone is extended to **6/14/2023**.
- (H) DISH's AWS H Block Licenses are extended from **4/29/2022** to **6/14/2023**.

#### **II. WAIVER OF FLEXIBLE USE RIGHTS**

With respect to the 600 MHz Licenses, the AWS-4 Licenses, the 700 MHz E Block Licenses, and the AWS H Block Licenses, DISH voluntarily waives its right to use the licenses under the FCC's "flexible use" policies. Specifically, DISH voluntarily consents to the FCC conditioning each of the 600 MHz Licenses, the AWS-4 Licenses, the 700 MHz E Block Licenses, and the AWS H Block Licenses to include a 5G Broadband Service obligation as a special condition of the licenses.

#### **III. 5G BUILDOUT COMMITMENTS**

##### **Nationwide 5G Deployment Commitment:**

DISH commits that by **6/14/2023**, DISH will deploy a nationwide 5G network using DISH's spectrum with:

- (A) At least 70% of the U.S. population having access to download speeds equal to or greater than 35 Mbps, as verified by a drive test;<sup>1</sup>

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<sup>1</sup> DISH will fund the drive tests to commence after June 14, 2023. The drive tests will utilize devices and an industry-standard methodology mutually agreed to by DISH and the Federal Communications Commission's Wireless Telecommunications Bureau (the "Bureau") within 180 days. The parties agree to revisit the methodology at least 3 months before the drive tests begin. The goal of the testing is to reflect the actual user experience under ordinary utilization and compare them to the stated speed commitment. The drive testing will involve oversight by an independent third party, but may be conducted by DISH personnel. The drive

(B) At least 15,000 5G Sites deployed; and

(C) At least 30 MHz of DISH's downlink 5G spectrum averaged over all DISH 5G Sites deployed nationwide (in the event that DISH has more than 15,000 5G Sites, DISH may choose the 15,000 sites that will be used to calculate its compliance with this commitment).

**Band-Specific 5G Deployment Commitments:**

**Commitment #1:** With respect to the 600 MHz Licenses, DISH commits to offer 5G Broadband Service to at least **70%** of the U.S. population and to have deployed a core network no later than **6/14/2023**.

**Commitment #2:** With respect to the 600 MHz Licenses, DISH commits to offer 5G Broadband Service to at least **75%** of the population in each PEA no later than **6/14/2025**.

**Commitment #3:** With respect to the AWS-4 Licenses, DISH commits to offer 5G Broadband Service to at least **20%** of the U.S. population and to have deployed a core network no later than **6/14/2022**.

**Commitment #4:** With respect to the AWS-4 Licenses, DISH commits to offer 5G Broadband Service to at least **70%** of the U.S. population no later than **6/14/2023**.

**Commitment #5:** With respect to the Lower 700 MHz E Block Licenses, DISH commits to offer 5G Broadband Service to at least **20%** of the U.S. population who are covered by DISH's Lower 700 MHz E Block Licenses and to have deployed a core network no later than **6/14/2022**.

**Commitment #6:** With respect to the Lower 700 MHz E Block Licenses, DISH commits to offer 5G Broadband Service to at least **70%** of the U.S. population who are covered by DISH's Lower 700 MHz E Block Licenses no later than **6/14/2023**.

**Commitment #7:** With respect to the AWS H Block Licenses, DISH commits to offer 5G Broadband Service to at least **20%** of the U.S. population and to have deployed a core network no later than **6/14/2022**.

**Commitment #8:** With respect to the AWS H Block Licenses, DISH commits to offer 5G Broadband Service to at least **70%** of the U.S. population no later than **6/14/2023**.

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testing will commence at the final commitment deadlines and will be completed within six (6) months thereafter. Only DISH 5G subscriber traffic using DISH's spectrum routed through the DISH core network may satisfy DISH's coverage and speed requirements.

#### IV. RESTRICTIONS ON SALE AND OTHER COMMITMENTS

- (A) DISH agrees not to sell its 600 MHz Licenses for a period of six years without prior FCC and DOJ approval (unless such sale is part of DISH selling itself; in that case, the purchaser shall be subject to the commitments and penalties herein unless the FCC and DOJ decide otherwise). For purposes of this commitment, to “sell” means (i) to transfer, assign, or dispose of the 600 MHz Licenses in any manner, either directly or indirectly; (ii) to transfer control of an entity holding the 600 MHz Licenses; or (iii) to enter into a lease arrangement or any other arrangement that results in the transfer of *de jure* or *de facto* control of the 600 MHz Licenses.
- (B) For a period of six years, DISH agrees not to provide, in any Partial Economic Area for its 600 MHz Licenses, in any rolling 12-month period (as determined at the end of every calendar quarter), directly or indirectly, via its 5G network, to any of the three largest wireless providers, or any combination thereof, traffic accounting for more than 35% of the network capacity on its 5G network, without prior FCC approval.
- (C) DISH agrees not to sell its AWS-4 Licenses for a period of six years without prior FCC and DOJ approval (unless such sale is part of DISH selling itself; in that case, the purchaser shall be subject to the commitments and penalties herein unless the FCC and DOJ decide otherwise). For purposes of this commitment, “sell” mean (i) to transfer, assign, or dispose of the AWS-4 Licenses in any manner, either directly or indirectly; (ii) to transfer control of an entity holding the AWS-4 Licenses; or (iii) to enter into a lease arrangement or any other arrangement that results in the transfer of *de jure* or *de facto* control of the AWS-4 Licenses.
- (D) For a period of six years, DISH agrees not to provide, in any Economic Area for its AWS-4 Licenses, in any rolling 12-month period (as determined at the end of every calendar quarter), directly or indirectly, via its 5G network, to any of the three largest wireless providers, or any combination thereof, traffic accounting for more than 35% of the network capacity on its 5G network, without prior FCC approval.

#### V. CONTINGENT EXTENSIONS

- (A) If DISH is offering 5G Broadband Service with respect to the AWS-4 Licenses to less than **50%** of the U.S. population by **6/14/2023**, DISH’s AWS-4 Licenses are subject to automatic termination in any EA where DISH is offering 5G Broadband Service with respect to the AWS-4 Licenses to less than **70%** of the population in such EA. If DISH is offering 5G Broadband Service with respect to the AWS-4 Licenses to greater than **50%** of the U.S. population by **6/14/2023**, then DISH’s Final AWS-4 Construction Milestone shall be automatically extended to **6/14/2025**.
- (B) If DISH is offering 5G Broadband Service with respect to the Lower 700 MHz E Block Licenses to less than **50%** of the total U.S. population covered by DISH’s Lower 700 MHz E Block Licenses by **6/14/2023**, then DISH’s Lower 700 MHz E Block Licenses are subject to automatic termination in any EA where DISH is offering 5G Broadband Service with respect to the Lower 700 MHz E Block Licenses to less than **70%** of the population in such EA. If DISH is offering 5G Broadband Service with respect to the Lower 700 MHz E Block Licenses to greater than **50%** of the total U.S. population covered by DISH’s Lower 700 MHz E Block

Licenses by **6/14/2023**, then DISH's Final 700 MHz E Block Construction Milestone shall be automatically extended to **6/14/2025**.

- (C) If DISH is offering 5G Broadband Service with respect to the AWS H Block Licenses to less than **50%** of the U.S. population by **6/14/2023**, DISH's AWS H Block Licenses are subject to automatic termination in any EA where DISH is offering 5G Broadband Service with respect to the AWS H Block Licenses to less than **75%** of the population in such EA. If DISH is offering 5G Broadband Service with respect to the AWS H Block Licenses to greater than **50%** of the U.S. population by **6/14/2023**, then DISH's Final H Block Construction Milestone shall be automatically extended to **6/14/2025**.

## **VI. STATUS REPORTS**

Within 30 days of the date of each commitment set forth in Section III, DISH shall file with the Bureau a report that includes information concerning the status of DISH's efforts to meet the terms of the commitments. *See* 47 C.F.R. § 27.14(l). The status report shall include the following information for each commitment:

- (A) Polygon shapefiles showing DISH's 5G Coverage Area for the applicable commitment;
- (B) A statement quantifying the U.S. Population covered by DISH's 5G Coverage Area as of the applicable commitment deadline;
- (C) A list of 5G Sites (including information identifying individual sites, *e.g.*, latitude and longitude), spectrum deployed by band per sector, and antenna details; and
- (D) A certification from a DISH engineering executive that the representations in the shapefiles, population coverage numbers, and site and spectrum deployment numbers are true and correct.

## **VII. ENFORCEMENT**

In the event that the Bureau determines that DISH has failed to meet any of the commitments related to nationwide 5G deployment and/or its AWS-4, 700 MHz and H Block holdings, DISH will make a voluntary contribution to the U.S. Treasury in the manner directed by the Bureau within 60 days of such determination of up to a total of \$2.2 billion.<sup>2</sup>

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<sup>2</sup> The total contribution could be as high as \$2.2 billion, calculated as \$200 million for the Interim Commitments, plus \$1 billion for the Nationwide 5G Deployment Commitment, plus \$600 million for Commitment #4, plus \$200 million for Commitment #6, plus \$200 million for Commitment #8. For the avoidance of doubt, license termination or forfeiture, if applicable, may impose additional costs and obligations over and above the \$2.2 billion in contributions pursuant to this section.

**Interim Commitments:**

In the event that the Bureau determines that DISH has failed to meet Commitment #3, Commitment #5, or Commitment #7, the applicable voluntary contribution shall be calculated as follows for each commitment that is not met, cumulative by band:

<b>Missed Population Percentage</b>	<b>Voluntary Contribution</b>
>0-25%	\$16,000,000
>25-50%	\$32,000,000
>50-75%	\$48,000,000
>75-100%	\$66,000,000

In the event DISH fails to deploy a core network by 6/14/22, DISH shall pay a voluntary contribution of \$200,000,000, regardless of shortfalls in the population coverage commitment. However, the maximum voluntary contribution for all failures to meet Commitments #3, #5, or #7 shall not exceed \$200,000,000.

**Final Nationwide 5G Deployment Commitment:**

In the event the Bureau determines that DISH has failed to meet the Nationwide 5G Deployment Commitment (see Section III), the applicable voluntary contribution for missing that commitment shall be calculated as follows:

- (A) The Bureau shall determine the percentage by which DISH has fallen short under each element. The voluntary contribution will be based on the single highest missed percentage of any missed element.
  
- (B) The following contribution scale will apply: the applicable voluntary contribution shall be calculated by multiplying each percentage missed, rounded to the nearest decimal, by \$10,000,000. For example, if DISH deploys only 7,500 5G Sites (thus missing the applicable buildout element by 50%), and if 50% is the highest percentage missed of any element, DISH’s voluntary contribution would be \$500,000,000. The maximum possible total voluntary contribution for the Nationwide 5G Deployment Commitment would be \$1 billion.

**Final Band-Specific 5G Deployment Commitments:**

In the event that the Bureau determines that DISH has failed to meet Commitment #4 (AWS-4), the applicable voluntary contribution shall be calculated by multiplying each percentage missed, rounded to the nearest decimal by \$6,000,000. For example, if DISH offers 5G Broadband Service to 63% of the U.S. Population (thus, missing the applicable buildout by 10%),<sup>3</sup> DISH’s voluntary contribution would be \$60,000,000, corresponding to a 10% miss, times \$6,000,000. The maximum possible voluntary

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<sup>3</sup> If there is a commitment to serve 70% of the U.S Population (218,992,544 out of 312,846,492), and DISH is able to serve only 197,093,290 (63% of the U.S. Population), the company would fall short by 21,899,254, which would be a percentage missed of 10% (21,899,254/218,992,544 x 100 = 10%).

contribution for covering zero percent of the U.S. Population for Commitment #4 would be \$600,000,000.

In the event that the Bureau determines that DISH has failed to meet Commitment #6 (Lower 700 MHz E Block), the applicable voluntary contribution shall be calculated by multiplying each percentage missed, rounded to the nearest decimal by \$2,000,000. For example, if DISH offers 5G Broadband Service to 63% of the U.S. Population (thus, missing the applicable buildout by 10%), DISH's voluntary contribution would be \$20,000,000, corresponding to a 10% miss, times \$2,000,000. The maximum possible voluntary contribution for covering zero percent of the U.S. Population for Commitment #6 would be \$200,000,000.

In the event that the Bureau determines that DISH has failed to meet Commitment #8 (AWS H Block), the applicable voluntary contribution shall be calculated by multiplying each percentage missed, rounded to the nearest decimal by \$2,000,000. For example, if DISH offers 5G Broadband Service to 63% of the U.S. Population (thus, missing the applicable buildout by 10%), DISH's voluntary contribution would be \$20,000,000, corresponding to a 10% miss, times \$2,000,000. The maximum possible voluntary contribution for covering zero percent of the U.S. Population for Commitment #8 would be \$200,000,000.

**Verification Metrics:**

- (A) Within six months of June 14, 2023, DISH will submit to the Bureau a report that will include:
  - a. Drive test results;<sup>4</sup>
  - b. Polygon shapefiles showing DISH's 5G Coverage Area as of June 14, 2023;
  - c. A statement quantifying the U.S. Population covered by DISH's 5G Coverage Area as of June 14, 2023;
  - d. A list of 5G Sites (including information identifying individual sites, *e.g.*, latitude and longitude), spectrum deployed by band per sector, and antenna details; and
  - e. A certification from a DISH engineering executive that the representations in the shapefiles, population coverage numbers, site and spectrum deployment numbers, and speeds are true and correct.
  
- (B) In making a determination regarding DISH's compliance with any of the commitments, the Bureau shall take into account and, in its reasonable discretion, appropriately reduce the metric, extend the deadline or reduce the contribution amount associated with commitments missed due to unanticipated circumstances beyond the company's control (*e.g.*, 600 MHz broadcaster transition for 600 MHz spectrum,<sup>5</sup> acts of God, such as fire, flood, earthquake, or other natural disasters; terrorist events, riots, insurrections, war, strikes or national emergencies; law or order of any government body; or significant interruptions in the supply chain). For clarity, "unanticipated circumstances" would not include anticipated supply chain or standards process

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<sup>4</sup> See Note 1.

<sup>5</sup> A delay in the relocation in a particular PEA will result in a commensurate extension of the deadline for that market. For example, if the broadcaster relocation is delayed by 3 months in a PEA, the final buildout deadline for that PEA will be extended by 3 months.

delays, or Commission action or inaction on requests by DISH to waive or change regulatory requirements.

## VIII. EFFECTIVE DATE

The existing Final AWS-4 Construction Milestone, the existing Final 700 MHz E Block Construction Milestone, and the existing March 7, 2020 expiration of the Lower 700 MHz E Block Licenses shall be tolled, effective upon the date of a release of an Order adopting these 5G Buildout Commitments and Related Penalties, until the earliest of the following: (1) Sprint and T-Mobile cease to have a pending agreement to merge; (2) a final judgment blocking the merger from any Federal U.S. District Court; (3) or any other circumstance or event that effectively eliminates the ability of Sprint and T-Mobile to effectuate their merger agreement.

## IX. DEFINITIONS

“**5G**” is defined as the 5G New Radio air interface standard as described in 3GPP Release 15, *available at* <https://www.3gpp.org/release-15>, or 3GPP Release 16 within 3 years of 3GPP final approval.

“**5G Broadband Service**” means at least 3GPP Release 15 capable of providing Enhanced Mobile Broadband (eMBB) functionality.

“**5G Coverage Area**” is defined as that area included within the bounds of the polygon shapefile representing geographic coverage for 5G service with coverage based on DISH’s ordinary course coverage analysis.

“**5G Sites**” is defined as macro sites on which 5G radios are deployed.

“**5G Spectrum**” is defined as dedicated licensed spectrum used for 5G radios.

“**600 MHz Licenses**” means all authorizations in the 600 MHz band (ULS Service Code WT) licensed to ParkerB.com Wireless L.L.C.

“**Access**” to specified speeds means that users of DISH-Certified 5G Devices will experience the specified download speeds on average (mean) across actual utilization.

“**AWS-4 Licenses**” means all authorizations in the AWS-4 band (ULS Service Code AD) licensed to Gamma Acquisition L.L.C and DBSD Corporation.

“**AWS H Block Licenses**” means all authorizations in the AWS H Block (ULS Service Code AH) licensed to American H Block Wireless L.L.C.

“**DISH-Certified 5G Device**” means a device that DISH has certified as compatible with its 5G network (it is anticipated that all 5G devices available from DISH will be DISH-Certified 5G Devices).

“**Final 600 MHz Construction Milestone**” means 47 C.F.R. § 27.14(t)(2).

“**Final 700 MHz E Block Construction Milestone**” means 47 C.F.R. § 27.14(g)(2) as subsequently waived by the Commission. *See Promoting Interoperability in the 700 MHz Commercial Spectrum, Report and Order and Order of Proposed Modification*, 28 FCC Rcd. 15122, 15148 ¶¶ 56-57 (2013).

**“Final AWS-4 Construction Milestone”** means 47 C.F.R. § 27.14(q)(2), as subsequently waived by the Commission. See DISH Network Corporation, Petition for Waiver of Sections 27.5(j) and 27.53(h)(2)(ii) of the Commission’s Rules and Request for Extension of Time, *Memorandum Opinion and Order*, 28 FCC Rcd. 16787, 16787-78 ¶ 1, 16804-05 ¶ 43 (2013).

**“Final H Block Construction Milestone”** means 47 C.F.R. § 27.14(r)(2).

**“Interim 600 MHz Construction Milestone”** means 47 C.F.R. § 27.14(t)(1).

**“Lower 700 MHz E Block Licenses”** means all authorizations in the Lower 700 MHz E Block (ULS Service Code WY) licensed to Manifest Wireless L.L.C.

**“U.S. Population”** is defined as the population of the United States (including the 50 states, Puerto Rico and the U.S. territories) reported in either the 2010 U.S. Census (312,846,492) or the 2020 U.S. Census (which is expected to be reported in 2021). In its sole discretion, DISH may choose whether to utilize the 2010 or 2020 versions of the U.S. Census in calculating its compliance with its commitments, but DISH must apply the same population total and population distributions to all calculations uniformly.