

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

METROPCS CALIFORNIA, LLC,

Plaintiff,

v.

MARYBEL BATJER, *et al.*,

Defendants.

Case No. [17-cv-05959-SI](#)

**ORDER RE: SUPPLEMENTAL
BRIEFING**

On April 23, 2021, the Court held a hearing on the parties' cross-motions for summary judgment. At the hearing, plaintiff's counsel asserted that the CPUC's audit of plaintiff's compliance with the rules and regulations with respect to the assessment, collection and remittance of the MTS surcharge (found at Barnes Reply Decl., Ex. A), combined with the fact that the CPUC has demanded that plaintiff pay an additional amount for 2017-2018 as a result of the intrastate allocation factor, demonstrates that the intrastate allocation factor impermissibly assesses MetroPCS's interstate and/or broadband data revenues and thus is preempted as applied to MetroPCS.

The Court finds that supplemental briefing on this specific issue is warranted. The Court directs plaintiff's counsel to file the CPUC's demand letter under seal. The Court also directs the parties to file supplemental briefs explaining their positions regarding why the audit and the demand letter do or do not establish that the intrastate allocation factor impermissibly assesses MetroPCS's interstate and/or broadband data revenues. The parties shall meet and confer and submit a stipulation regarding a briefing schedule for the supplemental briefs. Upon the filing of the

supplemental briefs, the Court will take the matter under submission.

IT IS SO ORDERED.

Dated: April 26, 2021



SUSAN ILLSTON
United States District Judge