

RODRÍGUEZ MARXUACH, P.S.C.

PO Box 16636, San Juan
Puerto Rico 00908-6636

Popular Center, Suite 1425
Ponce de León 208
San Juan, Puerto Rico 00918

Tel (787) 754-9898
Fax (787) 754-9897

July 19, 2019

VIA ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: WC Docket No. 18-141

Dear Ms. Dortch,

On July 19, 2019, a new ex parte submittal from Puerto Rico Telephone Company (“PRTC”) was posted to the Commission website (“Submittal”). Given the short notice and time frame, WorldNet has not had the opportunity to carefully review the filing, nor look at all at the confidential data submitted in this filing. With that being said, WorldNet respectfully disagrees with the contentions and claims made in this PRTC Submittal, including for all the reasons previously set forth on this record. WorldNet reiterates its position that the circumstances in Puerto Rico post-Hurricane, as well as the ongoing economic instability on the island, continue to warrant and justify special consideration for Puerto Rico by the Commission regarding loops, including among other things, either a carve out, or, in the alternative, an extended sunset period similar to or longer than the Commission has already authorized for transport. WorldNet here briefly addresses some additional specific points raised in PRTC’s latest filing.

PRTC contends that UNEs and copper based loops are not important to the Puerto Rico telecommunications market place. Undisputed record evidence shows PRTC is wrong. First, evidence shows that given the economic situation now, many Puerto Rico small businesses do not want, and cannot afford, services beyond UNE copper loops. As the Declaration of David Bogaty dated June 23, 2019 (“Bogaty Dec.”) shows, “...in the current economic climate of Puerto Rico, many Puerto Rico businesses do not need and are not looking for the extraordinary bandwidth and speeds of fiber-based technologies. They are looking for right-sized, functional, reliable and affordable communications services...” Further, given the unique circumstances of

a horrific hurricane event and possibly more to come, copper UNE loops play an important role in hurricane response. In fact, “with the recurring threat of hurricanes... hospitals and other emergency service providers, specifically want copper-based services so that their services still function during power outages.” Bogaty Dec. The independent Puerto Rico Telecommunications Bureau has similarly stated that the hurricane and competitive conditions in Puerto Rico compel the retention of UNE loops as an option. In its most recent filing (dated February 12, 2019—“Board Filing”), it states, “There are many areas in Puerto Rico that have not yet experienced robust competition. Foreclosing the UNE/TELRIC avenue for such areas would impede the benefits of competition for these areas and would likely hamper competitive activity...” This is consistent with FCC data showing PRTC still controlling the majority of the telecommunications marketplace. Further, the Board states, “The Board continues to affirm that the public interest is not served by granting the Petition [for forbearance]... when infrastructure is damaged by adverse weather conditions, it is vital to have access to other networks upon which services can be provisioned in a timely manner and at established TELRIC rates.” Board Filing.

The initial US Telecom petition acknowledged price increases would result from forbearance, and PRTC’s latest filing does nothing to dispel that concern. Yet price increases on an essential service are the *last* thing that Puerto Rico businesses need right now. “PRTC’s long-term plans- which it has started to implement- call for the deployment of fiber and fixed wireless technologies to provide high speed broadband (along with voice)...” PRTC Submittal. Foreclosing other copper based UNE options flies in the face of evidence that shows that many Puerto Rico businesses neither want, nor can afford, such services right now. And apparently, since PRTC has already “started to implement” those plans, they clearly have not been inhibited by the obligation to offer UNEs. There is no reason to cut off the UNE copper option as an alternative.

Further, a commercial option for copper loops on a wholesale basis, as PRTC has put forth in its Submittal, is belied by the *reality* of its actions. According to the Bogaty Dec., “[o]verall, in my experience, there has been, and continues to be, a very real and important market demand and place in Puerto Rico for the services that WorldNet provides using UNEs and resale. WorldNet has actively tried to secure its service to this market by inviting PRTC to propose, and actively proposing to PRTC, commercial arrangements for WorldNet’s continuing access to the facilities that WorldNet is now using as UNEs and for resale. *PRTC has rebuffed these efforts, summarily refusing WorldNet’s proposals and declining to make its own offer of commercial terms for these facilities.*” Bogaty Dec. (emphasis added).

PRTC seeks to diminish WorldNet’s role in the Puerto Rico marketplace. In point of fact, WorldNet has been for 23 years among the market leaders as a major player generally and in opening the market and specifically in pushing for quality services based upon measurable standards of performance. WorldNet has been in the forefront of advanced services such as IP, and technology such as cloud.

PRTC suggests fixed wireless as an option for DS0 voice grade loops, when in fact, WorldNet customers have not found this option to be viable in price or quality. PRTC suggests that it would offer its own fixed wireless substitute, yet such an option for WorldNet has only

just within the past few days been surfaced, and after summarily ending commercial negotiations for a copper substitute months before. With regard to the fixed wireless option mentioned in their Submittal, PRTC has only barely and recently mentioned this in the most general terms, without among other things any terms nor details to flesh out this suggestion. WorldNet has little basis right now to believe this will evolve into a viable copper substitute, particularly without the imperatives provided by a pending docket like this one.

Finally, WorldNet respectfully opposes PRTC's suggestion in its latest Submittal that a conditional forbearance be granted subject to a "competitive market test." In addition to muddying the waters of whether and when forbearance is granted, it could lead to disputes, delay, and uncertainty given the historically already-contentious relations between WorldNet and PRTC. And, a transition period of 18 months would be woefully inadequate for a host of reasons, not the least of which is the Commission has already granted 5 years for transport and there is good argument that loops justify a longer transition. Pharmacies, health care and emergency services located outside of the metropolitan areas would be negatively impacted by such a short time frame to find alternatives.

The record is clear and justifies action by the Commission that is clean simple and strong—either carve out Puerto Rico from any mainland forbearance, or, in the alternative, grant an extended sunset period similar to or longer than the Commission has already authorized for transport.

Respectfully submitted,

s/Maria Celeste Colberg-Guerra, Esq.
Maria Celeste Colberg-Guerra, Esq.
Counsel for WorldNet Telecommunications, Inc.

cc: andy.clarke@fcc.gov
arielle.roth@fcc.gov
travis.litman@fcc.gov
terri.natoli@fcc.gov
pamela.arluk@fcc.gov
edward.krachmer@fcc.gov
michele.berlove@fcc.gov
tom.momberg@fcc.gov
justin.faulb@fcc.gov
megan.capasso@fcc.gov
nirali.patel@fcc.gov
michael.carowitz@fcc.gov
evan.swarztrauber@fcc.gov