

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
The Uniendo a Puerto Rico Fund and the)	WC Docket No. 18-143
Connect USVI Fund)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
ETC Annual Reports and Certifications)	WC Docket No. 14-58

COMMENTS OF PUERTO RICO TELEPHONE COMPANY, INC.

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Puerto Rico Telephone Company, Inc. (“PRTC”), by its attorneys, submits these comments to urge the Federal Communications Commission (“FCC” or “Commission”) to size and shape Stage 2 funding for fixed providers under the Uniendo a Puerto Rico Fund to ensure that it meets the FCC’s expanded universal service goals which now include hurricane restoration and hardening, as well as an even more far-reaching expansion of broadband coverage.¹ The combination of the extreme destruction of then existing fixed broadband and telephone network plant by the 2017 hurricanes and the Commission’s ambitious goals of restoring, improving and expanding voice and broadband services in Puerto Rico warrant, at a minimum, doubling the size of the proposed Uniendo a Puerto Rico Fund.

¹ *The Uniendo a Puerto Rico Fund and the Connect USVI Fund, Connect America Fund, ETC Annual Reports and Certifications*, WC Docket Nos. 18-143, 10-90 and 14-58, FCC 18-57, Order and Notice of Proposed Rulemaking, FCC 18-57 (rel. May 29, 2018) (“Uniendo Order” or “Uniendo Notice”). In these comments, PRTC does not comment on the proposals as they relate to the Connect USVI Fund.

I. EXECUTIVE SUMMARY

The economic impact of the hurricanes on Puerto Rico and telecommunications infrastructure has been catastrophic. The amounts already spent by PRTC and other providers on fixed network restoration costs and the anticipated costs of expanding broadband service in Puerto Rico make it evident that the Commission must increase its proposed Stage 2 budget for fixed providers if it is to achieve its multipurpose goals of network restoration and hardening, and the expansion of broadband service. The current proposed budget bears no relationship to the challenges encountered and expenses already incurred of providing service in a post-hurricane Puerto Rico.

PRTC urges the Commission to establish an additional budget for fixed providers of \$620 million above the \$36 million per year of legacy frozen support for fixed networks. This more realistic budget would be based on fixed providers' actual estimates for short-term restoration expenses and proposed capital expenditures to modernize and expand broadband service throughout Puerto Rico. For speed of recovery, the Commission could more quickly and efficiently restore service by allowing PRTC, as the incumbent, the right of first refusal to restore and expand service in Puerto Rico. If offered the \$620 million in additional funding on a right of first refusal basis, PRTC could modernize and expand broadband service with fiber to the home ("FTTP") to *[begin confidential information]* *[end confidential information]* locations, 28 GHz fixed wireless broadband to *[begin confidential information]* *[end confidential information]* locations, and 2.5 GHz fixed wireless to yet another *[begin confidential information]* *[end confidential information]* locations at speeds that will range from 10/1 Mbps to 1 gigabit. Furthermore, PRTC would expand this service within *[begin confidential information]* *[end confidential information]*. By first offering support to the carrier that has already made substantial broadband investments and that is able to combine

the efficiencies, scale, scope and history of providing service to bring advanced broadband services to unserved areas throughout the island, the Commission will accelerate restoration and expansion of broadband and avoid inefficient duplication of facilities.

If PRTC declines to make the commitment to offer the specified service in exchange for the additional FCC-determined fixed support, the Commission should award fixed universal service support using a competitive request for proposal process. However, regardless of how much additional support the Commission decides to award and the mechanism by which it is ultimately distributed, it is imperative the Commission continue to provide the \$36 million per year in frozen support to PRTC for ten years to restore its network to its June 30, 2017 coverage area. Continued availability of this funding will be critical to Puerto Rico and its recovery.

II. THE COMMISSION MUST INCREASE ITS PROPOSED BUDGET FOR FIXED PROVIDERS TO ADDRESS THE COMMISSION'S MULTIPURPOSES OF BROADBAND EXPANSION, HURRICANE DAMAGE REIMBURSEMENT, AND NETWORK HARDENING IN PUERTO RICO.

A. The Commission's Proposed Uniendo a Puerto Rico Fund Budget Does Not Meets its Objectives.

The Commission should significantly increase the size of the Uniendo a Puerto Rico Fund and secure its distribution through a ten-year plan. The Commission's current proposal attempts to back into an appropriate budget by relying on \$360 million in legacy frozen support for fixed wireline networks that bears no relationship to the costs of recovery and of broadband expansion in a post-hurricane Puerto Rico.² When compared to its *December 2014 CAF Order*,³ which adopted the legacy frozen support for broadband improvement, the Commission's proposed budget here ignores the significant expansion of the FCC's stated goals which now

² This is calculated by multiplying existing fixed frozen support of \$36 million per year times ten years.

³ *Connect America Fund, et al.*, WC Docket No. 10-90, *et al.*, Report and Order, 29 FCC Rcd 15644 (2014) ("December 2014 CAF Order").

include hurricane restoration and hardening as well as even far greater broadband coverage.⁴

The uniqueness of the scope of devastation to telecommunications networks in Puerto Rico and the multipurpose goals that the Commission has identified warrant expansion of the Uniendo a Puerto Rico Fund.

The Commission proposes to offer \$474.7 million in support to fixed providers over a ten-year period. This amount is comprised of the following: (a) the \$36 million per year that Puerto Rico currently receives in high cost frozen support for fixed services (or \$360 million over ten years); (b) an estimated one-time infusion of \$30.72 million to help restore service;⁵ and (c) approximately \$8.4 million per year in additional funding (or \$84 million over ten years), which the Commission would make available “to ensure that carriers have sufficient funds to rebuild and improve the voice and broadband-capable networks, both where the hurricanes destroyed existing infrastructure and in rural areas that have not yet been served.”⁶

As explained below, PRTC recently completed an analysis of the financial impact of the hurricanes and it conclusively shows that the Commission’s proposed \$8.4 million per year in additional support for fixed voice and broadband is woefully insufficient. This is particularly evident when considered in relationship to the losses sustained and additional operating expenses incurred by PRTC in the aftermath of the 2017 hurricane season.

B. With No Broadband Expansion or Network Hardening, PRTC’s Hurricane Restoration Costs Alone Approximate the Commission’s Total Fixed Uniendo a Puerto Rico Fund Budget.

⁴ When the FCC adopted its \$36 million per year frozen support budget, it recognized that the amount of support available may be deficient in light of the newly adopted 10/1 Mbps service obligation. *Id.* ¶ 46.

⁵ In stage one, pursuant to the Uniendo Order, the Commission will make \$51.2 million in new funding available to Puerto Rico to help restore voice and broadband service. *Uniendo Order*, at ¶ 13. Of this amount, the Commission has allocated 60 percent (approximately \$30.7 million) to fixed providers. *Id.* ¶ 17.

⁶ *Uniendo Notice*, ¶ 30.

PRTC’s experience after the hurricanes is illustrative of the need for a fresh look. Like other telecommunications providers in Puerto Rico, PRTC experienced extensive and widespread damage to its wireline and wireless networks. Because PRTC is the largest provider with the most extensive telecommunications network in Puerto Rico, the devastation to the PRTC network was much greater than that suffered by the other carriers. In the days immediately after the storm’s landfall, approximately *[begin confidential information]*

[end confidential information] of PRTC’s central offices, almost *[begin confidential information]* *[end confidential information]* of its remote central offices, and approximately *[begin confidential information]* *[end confidential information]* of its DSLAMS, VRADs—which PRTC uses to provide broadband internet access service (“BIAS”) and IPTV service— and other nodes were down. Portions of PRTC’s fiber ring also suffered significant damage from the storm, particularly in the southeast and northeast areas of the island, where the eye of Hurricane Maria entered the island. PRTC facilities partially built with Connect America Fund Phase I Round II support to provide broadband services to unserved areas were almost completely destroyed.⁷ PRTC’s investment in broadband expansion in the island, which was supported in part by the annual \$36 million in high cost frozen support, was substantially wiped out by the hurricanes. Additionally, the majority of PRTC’s cell sites located throughout the island became non-operational due to structural or network damage and/or loss of power.

Because PRTC is the incumbent provider in Puerto Rico, its estimates regarding short-term restoration and expansion should significantly inform the Commission’s funding decisions for the Uniendo a Puerto Rico Fund. The short-term financial impact of the hurricanes on PRTC

⁷ The Connect America Fund Phase I Round II support totaled approximately \$31.5 million.

has been devastating. By the end of 2018, PRTC expects to have spent approximately *[begin confidential information]* *[end confidential information]*, which includes *[begin confidential information]* *[end confidential information]* in short-term restoration expenses plus *[begin confidential information]* *[end confidential information]* in short-term restoration-related capital expenditures.⁸ Of these amounts, approximately *[begin confidential information]* *[end confidential information]* was related to PRTC's fixed network. PRTC's estimated fixed network restoration costs of *[begin confidential information]* *[end confidential information]* are partially offset by *[begin confidential information]* *[end confidential information]* from the following three sources: (a) the high cost frozen support that the Commission advanced for the restoration of communications in the aftermath of Hurricane Maria;⁹ (b) the one-time support that the Commission will make available for restoration purposes in stage one of the Uniendo a Puerto Rico Fund;¹⁰ and (c) the portion of PRTC's *[begin confidential information]* *[end confidential information]* insurance claim associated with its fixed assets. However, even after the offset, PRTC will have spent approximately *[begin confidential information]* *[end confidential information]* for fixed network restoration costs.

In the aftermath of the hurricanes, PRTC has developed a comprehensive restoration and network modernization and expansion plan that, when completed, would bring advanced broadband services to just under *[begin confidential information]* *[end confidential information]* of the total locations in Puerto Rico in *[begin confidential information]* *[end confidential information]*. The estimated cost of the network

⁸ The capital expenditures include expenses to make PRTC's network more resilient.

⁹ See *Connect America Fund*, Order, 32 FCC Rcd 7981, ¶ 3 (2017) ("2017 Hurricane Funding Order").

¹⁰ *Uniendo Order*, ¶ 15.

modernization and expansion plan is [begin confidential information] [end confidential information]. Adding the [begin confidential information] [end confidential information] in short-term restoration fixed network costs and capital expenditures, and the [begin confidential information] [end confidential information] in the restoration and network modernization and expansion plan, *the total impact of the hurricanes on PRTC is* [begin confidential information] [end confidential information].¹¹

This amount best reflects only the impact of the hurricanes on PRTC's network and does not consider the costs of ongoing maintenance and operation of PRTC's network or the costs of restoration, operation, maintenance and possible expansion of other carriers' fixed networks in Puerto Rico. While PRTC does not expect nor is it asking that the Uniendo a Puerto Rico Fund fully fund the cumulative effect of post-hurricane network devastation, the population loss and drop in economic activity warrant additional universal service spending when considered in light of the Commission's broadly expanded goals.

C. The Commission's Proposed Uniendo a Puerto Rico Fund Budget is Not Sufficient Under Section 254 of the Communications Act.

Congress set forth specific principles for the Commission to consider when implementing the universal service policy. Relevant here, Congress stated in Section 254(b) of the Act that "[t]here should be specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service."¹² In Section 254(e), Congress also noted that federal support

¹¹ The [begin confidential information] [end confidential information] restoration and expansion estimate represents the cost to build FTTP or fixed wireless facilities that will pass [begin confidential information] [end confidential information] households – which represents [begin confidential information] [end confidential information] of the number of households in Puerto Rico according the U.S. Census Bureau. The estimated cost is in line with the [begin confidential information] [end confidential information] in total investment estimated by the CAM model to build FTTP to 1.67 million locations in Puerto Rico. It breaks down to [begin confidential information] [end confidential information] compared to the \$1,172 investment per location result in CAM version 4.2.

¹² 47 U.S.C. § 254(b)(5).

“should be explicit and sufficient” to achieve the purposes of [universal service].”¹³ In the context of high-cost universal service support to non-rural carriers, the Commission defined “sufficient” as “an affordable and sustainable amount of support that is adequate, but no greater than necessary, to achieve the goals of the universal service program.”¹⁴ The Commission’s intention in establishing the Uniendo a Puerto Rico Fund is to restore service, harden the network, and expand broadband service given the unprecedented devastation wrought by hurricanes Irma and Maria.¹⁵ Therefore, the sufficiency of the proposed funding must be evaluated in light of these stated purposes and the reality on the ground in a devastated Puerto Rico.

In the Uniendo Order, the Commission directs a one-time infusion of \$51.2 million for service restoration, of which sixty percent (\$30.7 million) is allocated to fixed network operators.¹⁶ While allocating funding to service restoration is critically important, the Stage 1 funding amount does not bear any relationship to the scope of network devastation. By the end of 2018, PRTC *alone* will have spent approximately [*begin confidential information*]

[*end confidential information*] as result of hurricane recovery efforts, of which [*begin confidential information*] [*end confidential information*] is for its fixed network. The \$30.7 million in stage one funding for service restoration is [*begin confidential information*] [*end confidential information*] of PRTC’s fixed network short term

¹³ 47 U.S.C. § 254(e).

¹⁴ *High-Cost Universal Service Support*, Order on Remand and Memorandum Opinion and Order, 25 FCC Rcd 4072, ¶¶ 3, 30 (2010), on remand, *Qwest v. FCC*, 398 F.3d 1222 (10th Cir. 2005).

¹⁵ *Uniendo Order*, ¶ 14 (stating that “it is in the public interest to provide new funding in the short term to restore service in Puerto Rico” due to the 2017 hurricanes, “which collectively were unprecedented in their severity and in the protracted duration of damage they caused” and that “we recognize that a longer-term solution is needed to rebuild, improve, and expand service in Puerto Rico ... given the widespread devastation to communications networks caused by the hurricanes”).

¹⁶ *Id.*, ¶¶ 15, 17.

expenditures. Even before considering of the costs incurred by other fixed providers, the amount dedicated to restoration of service for fixed providers in Puerto Rico is inadequate.

The USF currently directs approximately \$36 million each year in high cost frozen support to fixed services in Puerto Rico. The Commission proposes to reallocate the current frozen support to the Uniendo a Puerto Rico Fund and increase funding for fixed services by \$8.4 million per year over ten years to rebuild, improve and expand broadband service. Over ten years, the size of this fund would be \$444 million. As previously noted, the cost of PRTC's network modernization and expansion plan is *[begin confidential information]* *[end confidential information]*, which significantly exceeds the entirety of the Commission's proposed Stage 2 funding to rebuild, improve and expand broadband even before considering the support needed to operate and maintain voice and broadband services in low income¹⁷ and high cost areas on the island.¹⁸ This disparity alone, which excludes the expenses of other fixed providers, shows the inadequacy of the proposed Uniendo a Puerto Rico Fund budget. But, the insufficiency is exacerbated by the *[begin confidential information]* *[end*

¹⁷ The Commission must consider the impact of the hurricanes on population and income levels. Hurricane Maria's impact on Puerto Rico's population has been unprecedented. According to data from the Puerto Rico Statistics Institute, approximately 184,000 people (6% of the population) migrated from Puerto Rico to the continental U.S. from September through November 2017. Agustín Criollo, *Puerto Rico lost 6% of its population after Hurricane Maria*, Caribbean Business, Mar. 9, 2018, available at <http://caribbeanbusiness.com/puerto-rico-lost-6-of-its-population-after-hurricane-maria/>. The Center for Puerto Rican Studies estimates that Puerto Rico may lose up to 470,335 residents or 14% of the population from 2017 to 2019. Edwin Meléndez and Jennifer Hinojosa, *Estimates of Post-Hurricane Maria Exodus from Puerto Rico*, Center for Puerto Rican Studies, Centro RB2017-01, October 2017, available at https://centropr.hunter.cuny.edu/sites/default/files/RB2017-01-POST-MARIA%20EXODUS_V3.pdf. The median household income in Puerto Rico from 2012 to 2016 (in 2016 dollars) was \$19,606. QuickFacts Puerto Rico, U.S. Census Bureau, available at <https://www.census.gov/quickfacts/fact/table/pr/IPE120216#viewtop>. According to a study by the University of Puerto Rico in Cayey, an estimated 254,900 residents who pre-hurricane were earning between 25 and 50 percent above the poverty level are now living below it, which could bring the island poverty figure to nearly 60 percent. *Poverty for Post-Maria Puerto Rico Up By 8%*, TelesurTV.Net, Nov. 28, 2017, available at <https://www.telesurtv.net/english/news/Poverty-for-Post-Maria-Puerto-Rico-Up-By-8-20171128-0023.html>. Lower population and greater poverty means subscribership rates will decline in post-Maria Puerto Rico.

¹⁸ The annual \$36 million in high cost frozen support has been used to support operations and maintenance of voice and broadband services in previously unserved areas.

confidential information] in unrecovered expense and investment associated with short term restoration efforts and the expected decrease in customer revenue from lower subscription even after service is restored and expanded.¹⁹ In Section III, PRTC proposes a solution to address the funding inadequacy.

D. In Establishing a Budget for the Uniendo a Puerto Rico Fund, the Commission Must Consider the Challenges and Expenses of Providing Service in a Post-Hurricane Puerto Rico.

Any discussion regarding the sufficiency of support for Puerto Rico under the Uniendo a Puerto Rico Fund must take into consideration the unique challenges and expenses of providing service in an isolated, tropical area that is just recovering from an unprecedented disaster. As the Commission has already determined, using the FCC’s Connect America Model (“CAM”) to justify an amount needed would not be appropriate.²⁰ For well over a decade, PRTC has highlighted factors to the Commission that make building and operating a modern network in Puerto Rico unique. These factors include: (a) higher shipping-related costs, because all the supplies necessary for creating and maintaining a telecommunications infrastructure must be shipped and stored at considerable expense; (b) higher operational costs associated with the topography of Puerto Rico, such as the rough, hilly terrain and heavy tropical vegetation in

¹⁹ Before the hurricanes, PRTC proposed in exchange for the continuation of \$36 million per year in frozen support to deploy 10 Mbps/768 kbps broadband Internet access to 58,425 unserved locations, which is significantly greater than the 17,346 unserved locations identified by the CAM. Comments of Puerto Rico Telephone Company, Inc., WC Docket Nos. 10-90, 14-58, 07-135; WT Docket No. 10-208; and CC Docket No. 01-92 (filed Aug. 8, 2014). PRTC would have used its \$36 million per year for five years in high cost frozen support to expand broadband to these locations. Many of these new locations would have received broadband Internet access for the first time from a wireline network of any kind. The Commission now proposes to require that well over a million locations have broadband availability for an additional \$8.4 million in support per year. This is woefully insufficient. Additionally, PRTC’s proposal of 58,425 locations was based on the criterion that the locations would be unserved by an unsubsidized competitor measured by then-current FCC Form 477 data. As the Commission has recognized, in the post-hurricane world where every fixed network, subsidized or unsubsidized, was effectively destroyed, the number of locations without functioning broadband service has increased significantly.

²⁰ *Connect America Fund; High-Cost Universal Service Support*, WC Docket Nos. 10-90 and 05-337, Report and Order, 29 FCC Rcd 3964, ¶ 151-154 (WCB 2014) (“CAM Inputs Order”).

sparsely populated inland areas; (c) higher operational costs associated with the climate of Puerto Rico, which is corrosive and inhospitable to telecommunications equipment, leading to accelerated deterioration of equipment; (d) higher operational costs associated with severe tropical weather in the Caribbean, which requires frequent reconstruction of existing infrastructure due to storm and hurricane damage; and (e) significantly lower average income and higher poverty levels than any state in the nation, which results in low customer adoption rates.²¹

In the *USF/ICC Transformation Order*, the Commission recognized that price cap carriers serving specific non-contiguous insular areas of the United States, such as Puerto Rico, face different operating conditions and challenges from those faced by carriers in the contiguous forty-eight states.²² As a result, the Commission directed the Wireline Competition Bureau (“Bureau”) to consider the unique circumstances of these areas when adopting a cost model and whether the model provides sufficient support for carriers serving these areas.²³ The Commission stated that if the model ultimately adopted did not provide sufficient support to Puerto Rico and the other insular areas, the Bureau could maintain existing support levels to any affected price

²¹ See e.g., Comments of Puerto Rico Telephone Company, Inc., WC Docket No. 10-90, at 5 (filed April 28, 2017); Comments of Puerto Rico Telephone Company, Inc., WC Docket No. 10-90, at 8 (filed Sept. 12, 2013); Comments of Puerto Rico Telephone Company, Inc., WC Docket Nos. 10-90 and 05-337, at 4 (filed July 9, 2012); Reply Comments of Puerto Rico Telephone Company, Inc., WC Docket Nos. 10-90, 07-135, 05-337, 03-109; GN Docket No. 09-51; and CC Docket Nos. 01-92 and 96-45, at 3 (filed Sept. 6, 2011); Comments of Puerto Rico Telephone Company, Inc., WC Docket Nos. 10-90, 07-135, 05-337, 03-109; GN Docket No. 09-51; and CC Docket Nos. 01-92 and 96-45, at 7 (filed Aug. 24, 2011); Reply Comments of Puerto Rico Telephone Company, Inc., WC Docket Nos. 10-90, 07-135, 05-337, 03-109; GN Docket No. 09-51; and CC Docket Nos. 01-92 and 96-45, at 5-6 (filed May 23, 2011).

²² *USF/ICC Transformation Order*, 26 FCC Rcd 17663, ¶ 193. The other non-contiguous areas are Alaska, Hawaii, the U.S. Virgin Islands and Northern Marianas Islands.

²³ *Id.*, ¶ 193.

cap carrier without exceeding the overall budget of \$1.8 billion per year.²⁴

In the 2014 *CAM Inputs Order*, the Bureau adjusted a number of inputs in the CAM specific to insular areas to reflect better the unique costs and circumstances of serving those areas.²⁵ For instance, the Bureau refined the approach to modeling the investment and cost for undersea cable and landing station facilities needed to transport traffic to and from insular areas to the contiguous United States.²⁶ Despite these adjustments, the Bureau still found that the CAM failed to accommodate the unique circumstances of serving insular areas and that it must therefore support universal service in these areas pursuant to a different mechanism.²⁷

Indeed, any nationwide cost-model approach such as the CAM will not lead to the distribution of adequate support for broadband deployment in Puerto Rico even in normal times because it does not account for the higher costs, described above, of providing service in Puerto Rico. The CAM assumes high subscribership rates, much higher than those experienced in Puerto Rico even *before* the hurricane and which are likely to decline in post-hurricane Puerto Rico where population has declined.²⁸ As the Commission decides the appropriate funding level for the goals of hurricane restoration and hardening and broadband expansion, it is critically important it consider the challenges and expenses of providing service in a post-hurricane Puerto Rico.

²⁴ *USF/ICC Transformation Order*, ¶ 193.

²⁵ *CAM Inputs Order*, ¶ 126.

²⁶ *Id.*, ¶ 130.

²⁷ *Id.*, ¶¶ 150-152. As a result, the Bureau provided insular carriers the option of choosing either to continue to receive frozen support amounts for the five-year term of CAF Phase II, or to elect to receive the model-determined support amount. *Id.*

²⁸ *Id.*, ¶ 177 (adopting an expected subscription rate of 70 percent for the purpose of estimating the amount of revenues a carrier may reasonably recover from end-users). Even before the hurricanes, Puerto Rico's struggling economy and extreme poverty resulted in take rates significantly below the CAM's assumption. *See* Comments of Puerto Rico Telephone Company, Inc., WC Docket No. 10-90, p. 11-12 (filed Jan. 7, 2014).

III. THE COMMISSION SHOULD ESTABLISH AN ADDITIONAL BUDGET FOR FIXED PROVIDERS OF \$620 MILLION ABOVE THE \$36 MILLION PER YEAR OF LEGACY FROZEN SUPPORT.

The Commission should increase the additional support for the provision of fixed broadband service in Puerto Rico from \$146.7 million to \$620 million while maintaining the \$360 million in frozen support. The addition of \$620 million will bring total support to Puerto Rico over the ten-year term of the Uniendo a Puerto Rico Fund to \$980 million. Increasing annual support from the current amount of \$36 million to \$98 million represents a significant increase, but the Commission has significantly changed the goals of the funding.

While the \$36 million in annual support was determined by the Commission to be adequate to support the provision of service over an existing network and a modest expansion of broadband capability (17,346 locations), the goals of the Uniendo a Puerto Rico Fund are significantly more ambitious – the restoration of fixed networks virtually destroyed by two hurricanes coupled with the expansion of weather-hardened broadband infrastructure to over 1 million locations. In addition, these greatly enhanced goals must be achieved in a market expected to have a significantly reduced customer base with even lower incomes. PRTC’s proposal to set the Uniendo a Puerto Rico Fund ten-year budget at \$980 million (\$360 million in continued frozen support and \$620 million in additional support) means that even it receives 100 percent of the Uniendo a Puerto Rico Fund budget, the company will be required to invest hundreds of millions of its own capital. PRTC has demonstrated that its restoration, modernization and expansion proposal will require [*begin confidential information*]

[*end confidential information*] in total expenditure - [*begin confidential information*]

[*end confidential information*] greater than the total requested budget for the Uniendo a Puerto Rico Fund.

Before initiating a competitive funding allocation process, the Commission should give PRTC, as the incumbent, the right of first refusal. If PRTC declines to make the commitment to offer the specified service in exchange for the additional fixed support, the Commission should award ongoing support using a competitive request for proposal process. The additional support should be separate and apart from the legacy frozen support. As explained below, this approach will best promote the Commission's aim of providing support quickly and efficiently to speed the network rebuilding, hardening and expansion in Puerto Rico.

A. Term of Support

The Commission should distribute the proposed additional \$620 million fixed support over a ten-year term. A ten-year term of support is consistent with the Commission's actions in other proceedings. For instance, in the 2014 *Tech Transitions Order*, the Commission allowed participants in the rural broadband experiments to seek support for up to ten years.²⁹ Similarly, in the *April 2014 CAF Order*, the Commission concluded that CAF Phase II support should be available for ten years.³⁰ The challenge faced by providers and the Commission in Puerto Rico is unprecedented in the history of universal service – the infrastructure of an entire state or territory was almost completely destroyed. A ten-year term best addresses this unique challenge.

B. Eligible Providers

As explained in Section II.G., the Commission's goals would be best served if PRTC is given a right of first refusal. In the event PRTC declines to accept the proposal, the Commission should award the additional fixed support by evaluating competitive proposals. PRTC agrees

²⁹ *Technology Transitions et al.*, GN Docket No. 13-15 *et al.*, Order, Report and Order and Further Notice of Proposed Rulemaking, Report and Order, Order and Further Notice of Proposed Rulemaking, Proposal for Ongoing Data Initiative, 29 FCC Rcd 1433, ¶¶ 123-126 (2014).

³⁰ *Connect America Fund et al.*, WC Docket No. 10-90 *et al.*, Report and Order, Declaratory Ruling, Order, Memorandum Opinion and Order, Seventh Order on Reconsideration, and Further Notice of Proposed Rulemaking, 29 FCC Rcd 7051, ¶ 35 (2014).

with the Commission that, in a competitive scenario, eligible providers should be limited to those that, according to June 2017 FCC Form 477 data, had an existing fixed network and provided broadband service in Puerto Rico to residential customers prior to the hurricanes.³¹ As the Uniendo Notice indicates, this requirement is sensible for two reasons: providers who offered services before the hurricane would be better equipped to rebuild and expand service as quickly as possible than those who did not, and existing providers with established track records present a smaller risk of defaulting on their service obligations.³²

The Uniendo Notice asks if participation should be limited to fixed providers who served at least some residential locations or whether providers that served only business locations should also be permitted to participate.³³ It would be difficult for a provider with experience serving only business locations to realize the Commission's goal of rebuilding and expanding service to residential and business locations quickly and efficiently. The Commission should not risk limited universal service dollars on providers without an established track record. Therefore, in a competitive proposal scenario, eligibility should be limited to fixed providers that, according to June 2017 FCC Form 477 data, had an existing fixed network and provided broadband service to at least some residential locations in Puerto Rico prior to the hurricanes.

The Uniendo Notice proposes to evaluate the financial and technical capabilities of the applicants through a single-stage application process, rather than the two-phase application process of the competitive bidding rules for universal service in Part 1, Subpart AA of the Commission's rules.³⁴ PRTC agrees with the Commission. A single-stage application process

³¹ *Uniendo Notice*, ¶ 42.

³² *Id.*, ¶ 42.

³³ *Id.*

³⁴ *Id.*, ¶ 43.

would expedite the competitive proposal process, which would enable the recipient to rebuild and expand service quickly.

C. Eligible Areas

The Uniendo Notice proposes to make eligible all of Puerto Rico due to the “unique circumstances presented by the widespread destruction of critical infrastructure.”³⁵ PRTC agrees with the Commission that all of Puerto Rico should be eligible. As the Commission notes, the key benefits of this approach are that it would eliminate the need to establish a challenge process, thus expediting completion of the process, and it would encourage applicants to expand service to all areas that were previously unserved and restore service to areas that had service before the hurricanes. Data from the FCC’s CAM model and the latest publicly available FCC Form 477 show that prior to the hurricanes there were 220,700 locations with no broadband service in Puerto Rico.³⁶ This number has increased dramatically after the hurricanes. PRTC estimates that [*begin confidential information*] [end confidential information] of its fixed customers lost service due to the hurricanes. While in the interim ten months many of them have been reconnected using temporary repairs, permanent repairs have not yet started. Other fixed networks likely lost a comparable percentage of customers. Thus, the number of locations today without permanent fixed broadband likely approaches over one million households. As such, given the devastating impact of the hurricanes on Puerto Rico’s telecommunications infrastructure across every part of the island, and the need for prompt action, the Commission should make eligible all of Puerto Rico and suspend for several years any requirement that use of

³⁵ *Id.*, ¶ 45.

³⁶ The CAM model shows 1.67 million total locations in Puerto Rico.

the funds be restricted to areas without an unsubsidized competitor. The time and costs associated with maintaining such an approach here would be wasteful and inefficient.

D. Minimum Geographic Area

The Uniendo Notice proposes that the minimum geographic area be defined by Puerto Rico's seventy-eight municipalities, although it raises the question whether municipalities are "too large to target funding in a competitively neutral manner."³⁷ Using municipalities is appropriate because it would allow providers to achieve economies of scale that would not be available with smaller areas. Using a smaller geographic area, such as Puerto Rico's barrios (of which there are over 900), census blocks or census block groups would be economically inefficient and administratively unworkable. Therefore, PRTC concurs with the Commission that municipalities should serve as the basic geographic area for support.

E. Number of Locations in Each Geographic Area

The Uniendo Notice proposes to identify the number of locations in each geographic area by using the CAM.³⁸ As the Commission correctly points out, this approach is problematic due to possible changes in the number of locations post-hurricane and the difficulties in obtaining more recent, accurate data.³⁹ This is on top of the issues faced by the Commission in other jurisdictions when trying to determine the number of locations through a reconciliation of the CAM model locations with actual locations. Therefore, the Commission should evaluate proposals to serve all the locations in a municipality without determining exactly how many locations that represents. This approach is administratively simple to carry out, it is consistent with the Commission's own conclusion that all of Puerto Rico should be eligible given the

³⁷ *Id.*, ¶ 47.

³⁸ *Id.*, ¶ 49.

³⁹ *Id.*

unique circumstances presented by the widespread destruction of critical infrastructure, and it promotes the Commission's goal of providing support quickly and efficiently.

F. Service Obligations

The Uniendo Notice proposes that, in addition to voice service, support recipients offer broadband service meeting the following metrics: download/upload speeds of at least 10/1 Mbps, roundtrip latency of no greater than 100 milliseconds, and a minimum usage allowance of the higher of 170 gigabytes per month or one that reflects the average usage of a majority of consumers, using Measuring Broadband America data or a similar data source.⁴⁰ PRTC agrees that these obligations are appropriate and they should be adopted.

G. Distribution Alternatives.

1. Right of First Refusal

Before initiating a competitive funding allocation process, the Commission should give PRTC, as the incumbent, the right of first refusal to support broadband service in exchange for the \$620 million in additional support.⁴¹ If offered this additional funding on a right of first refusal basis, PRTC is prepared to modernize and expand broadband service of at least 10/1 Mbps to just under [*begin confidential information*] [*end confidential information*] of the total locations in Puerto Rico (approximately [*begin confidential information*] [*end confidential information*] out of a pre-hurricane total number of households of 1.376 million), in [*begin confidential information*] [*end confidential information*]. Specifically, PRTC would bring FTTP with 1 gigabit connections to [*begin confidential information*] [*end confidential information*] locations, 28 GHz fixed

⁴⁰ *Id.*, ¶ 60.

⁴¹ The additional support should be separate and apart from the legacy frozen support. *See* Section IV regarding treatment of the legacy frozen support.

wireless with 100/20 Mbps connections to [begin confidential information] [end confidential information] locations, and 2.5 GHz fixed wireless with 10/1 Mbps to [begin confidential information] [end confidential information] locations. Not many providers in the continental United States have committed to deploy FTTP to these many locations in such a short period of time.

The Commission is very familiar with the right of first refusal approach. In the *USF/ICC Transformation Order*, the Commission offered incumbent price cap carriers CAF Phase II support for a period of five years in exchange for a commitment to offer voice across their service territory within a state and broadband service to supported locations within that service territory, subject to public interest obligations and accountability standards.⁴² For all territories for which price cap LECs declined to make this commitment, the Commission decided to award ongoing support through a competitive bidding mechanism.⁴³

The same approach would be particularly well suited to assist Puerto Rico given the conditions on the ground and the Commission's stated goals of hurricane restoration and hardening and broadband expansion. By first offering support to the carrier that has already made substantial broadband investments, the Commission will accelerate restoration and expansion of broadband and avoid inefficient duplication of facilities. While PRTC's facilities suffered unprecedented damage, no other broadband provider in Puerto Rico can combine the efficiencies, scale, scope and history of providing service to bring advanced broadband services to unserved areas throughout the island and make the Uniendo a Puerto Rico Fund a success.

⁴² *USF/ICC Transformation Order*, 26 FCC Rcd 17663, ¶ 166.

⁴³ *Id.*

This is the best and most efficient way of distributing universal service support during this critical time for Puerto Rico and PRTC encourages the Commission to adopt it.⁴⁴

2. Competitive Proposals

If PRTC declines to make the commitment to offer the specified service in exchange for the additional fixed support, the Commission should allocate the support using a competitive request for proposal process. After the right of first refusal approach, evaluating competitive proposals would be the second most efficient manner of avoiding lengthy delays in distributing critical funding. PRTC has participated in most commercial wireless spectrum auctions and, based on its experience, it agrees with the Commission that a competitive proposal process would be a more streamlined approach than the typical auction.

The competitive proposal process should allow for at least two rounds. In the first round, eligible carriers submit their proposals, under seal, to the Commission. Interested applicants should specify, at a minimum, the following information: (a) the amount of support from the Uniendo a Puerto Rico Fund the applicant seeks, if less than the total budget, for bringing the fastest and most robust broadband service to the largest number of locations in Puerto Rico; (b) the specific number of locations the applicant proposes to serve, including the number of unserved locations by an unsubsidized competitor, and the municipalities in which they are located; (c) the metrics of the proposed broadband service (download/upload speeds, roundtrip latency, and minimum usage allowance); (d) the proposed schedule for the completion of the project; (e) the applicant's financial capabilities; and (f) the applicant's technical capabilities.

⁴⁴ *Id.*, ¶ 177 (stating that incumbent LECs are in a unique position to deploy broadband networks rapidly and efficiently in areas where they already provide service).

In the Uniendo Notice, the Commission proposes to select winning proposals based primarily on price per-location served while adjusting the bids to consider factors including network resiliency, network deployment timing and network performance.⁴⁵ The Commission should review and score the proposals based on each of the six factors set forth in the previous paragraph. However, cost should not be the most heavily weighted factor. As the Commission correctly points out, considering price as the primary factor would penalize proposals that reflect the increased costs of deploying a storm-hardened network in Puerto Rico.⁴⁶ Instead, the Commission must have flexibility to consider the critical need for hurricane restoration and hardening as well as broadband expansion. After all, the hurricanes and the destruction they caused are the primary reason for this proceeding and the Commission's creation of the Uniendo a Puerto Rico Fund.

IV. REGARDLESS OF ITS DECISION REGARDING ADDITIONAL SUPPORT, THE COMMISSION SHOULD MAINTAIN LEGACY FROZEN SUPPORT.

Regardless of how much additional support the Commission decides to award and the mechanism by which it is ultimately distributed, the Commission should continue to provide the \$36 million per year in frozen support to PRTC. PRTC should not lose its USF funding because it had the misfortune of being hit by a Category 5 hurricane. Because the hurricane largely wiped out any gains that had been made under CAF Phase I Round II and CAF Phase II frozen support, frozen support should be extended over the life of the Uniendo a Puerto Rico Fund. Additionally, due to the special circumstances of widespread service disruption to PRTC's and other carriers' facilities, the exorbitant costs that PRTC has already incurred and is expected to incur in service restoration and capital expenditures, and the public interest of restoring service

⁴⁵ *Uniendo Notice*, at ¶ 55.

⁴⁶ *Id.*

as soon as possible to all parts of the island, the Commission should permit PRTC to use the frozen support in any part of Puerto Rico to expedite fixed service restoration in addition to broadband improvements.⁴⁷

The Commission imposed obligations on eligible telecommunications carriers (“ETCs”) to maintain landline services for high cost, hard-to-reach rural areas, as well as indigent households and local institutions like schools, hospitals, and libraries.⁴⁸ A designated ETC generally serves all the needy areas and individuals within a state.⁴⁹ In Section 254 of the Act, Congress established the universal service fund to give each ETC financial support in providing these critical services.⁵⁰ Before the hurricanes, PRTC was the only wireline ETC serving Puerto Rico.

PRTC’s facilities were heavily damaged by the hurricanes and it has incurred unprecedented costs in restoring service. Furthermore, as an insular carrier serving a non-contiguous area, PRTC faces different operating conditions and challenges compared to carriers in the contiguous forty-eight states. The Commission recognized the unique challenges of insular carriers when it gave these carriers the option of choosing either to continue to receive

⁴⁷ After the hurricanes, the Commission waived its rules to allow PRTC to use high-cost support in any part of Puerto Rico after concluding that “all of Puerto Rico is presumptively unserved by unsubsidized competitors.” *2017 Hurricane Funding Order*, 32 FCC Rcd 7981, ¶ 12. Given the devastation to the telecommunications infrastructure, the continuing challenges and expenses associated with service restoration, and the Commission’s expanded universal service goals of hurricane restoration and hardening as well as greater broadband coverage, the Commission should extend the waiver until there has been significant progress in achieving these goals.

⁴⁸ See 47 U.S.C. § 254(h); Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8790-97 (1997).

⁴⁹ See *Connect America Fund et al.*, WC Docket No. 10-90 *et al.*, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 26 FCC Rcd 4554, ¶372 & n.519 (2011).

⁵⁰ 47 U.S.C. § 254(e) (“...only an eligible telecommunications carrier designated under section 214(e) of this title shall be eligible to receive specific Federal universal service support. A carrier that receives such support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Any such support should be explicit and sufficient to achieve the purposes of this section.”); see *Rural Cellular Ass’n v. FCC*, 588 F.3d 1095, 1098-99 (D.C. Cir. 2009).

frozen support amounts or to elect to receive the CAM-determined support amount.⁵¹ On December 22, 2014, PRTC elected to continue to receive frozen support.⁵² The only thing that has changed since that election is that two massive hurricanes caused unprecedented devastation throughout Puerto Rico, including to the island's telecommunications infrastructure. As the Uniendo Notice indicates, "disrupting the existing flow of frozen support is likely to harm restoration efforts, especially in more rural areas where those receiving historical support are more likely to serve."⁵³ Before the Commission seeks to support network hardening and broadband expansion in Puerto Rico, it should use the legacy frozen support to restore PRTC's network to its June 30, 2017 coverage area. Continued availability of this funding will be critical to Puerto Rico and its recovery. At a minimum, and consistent with the *December 2014 CAF Order*,⁵⁴ the Commission should maintain the legacy frozen support for ten years.

V. THE COMMISSION SHOULD ADOPT ITS PROPOSAL FOR WIRELESS PROVIDERS.

Currently, mobile carriers in Puerto Rico receive approximately \$6.6 million each month (or \$79.2 million annualized) in frozen support.⁵⁵ In the Uniendo Notice, the Commission proposes to supplement this support over a three-year period by giving providers in Puerto Rico an additional \$5.6 million per year (\$16.8 million over three years) through the Uniendo a Puerto

⁵¹ *CAM Inputs Order*, ¶ 152; *see also December 2014 CAF Order*, ¶ 46 ("We recognize that noncontiguous carriers face unique circumstances in the areas they serve and experience different challenges in deploying broadband service in those areas.").

⁵² Letter from Thomas J. Navin, Counsel to Puerto Rico Telephone Company, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Dec. 22, 2014).

⁵³ *Uniendo Order*, ¶ 22 n.46.

⁵⁴ *December 2014 CAF Order*, 29 FCC Rcd 15644.

⁵⁵ *Uniendo Order*, ¶ 11.

Rico Fund to rebuild their networks after the destruction wrought by the hurricanes and their aftermath.⁵⁶ PRTC supports the proposed additional funding.

As PRTC has previously reported to the Commission, the majority of cell sites located throughout the island became non-operational due to structural or network damage and/or loss of power in the aftermath of the hurricanes.⁵⁷ As of December 31, 2017 (116 days since Hurricane Irma and 103 days since Hurricane Maria), a considerable amount of PRTC's cell sites remained down due to structural or network damage from the hurricanes. The continued lack of reliable commercial power and long-term reliance on backup generators has made restoration of the wireless network a daunting task. The proposed additional funding will be critical to repair the damage caused by the hurricanes to PRTC's wireless network and make it more resilient to future natural disasters.

PRTC supports the Commission proposed allocation of 80 percent of the additional funding for mobile carriers in Puerto Rico and the remaining 20 percent for mobile carriers in the U.S. Virgin Islands.⁵⁸ As the Uniendo Notice explains, the ratio reasonably accounts for the differences in landmass, geography, topography and population between Puerto Rico and the U.S. Virgin Islands, as well as the financial and operational challenges faced by carriers in both areas. PRTC also supports the Commission's proposals to make the additional funding available only to providers that provided facilities-based mobile services prior to the hurricanes, according to the June 2017 Form 477 data, and that the funding be based on the number of subscribers (voice or broadband Internet access service) each provider served as of June 30, 2017.⁵⁹

⁵⁶ *Uniendo Notice*, ¶ 82.

⁵⁷ *See* Comments of Puerto Rico Telephone Company, Inc., PS Docket No. 17-344, at 5 (filed Jan. 22, 2018).

⁵⁸ *Uniendo Notice*, ¶¶ 82-83.


⁵⁹ *Id.*, ¶ 84.

VI. CONCLUSION

For the reasons stated herein, PRTC urges the Commission to modify its proposal for the Uniendo a Puerto Rico Fund consistent with these comments.

Respectfully submitted,

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