

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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

Comments of Data@ccess Communications, Inc.

Walter Arroyo
MARASHLIAN & DONAHUE, PLLC
The *CommLaw* Group
1420 Spring Hill Road, Suite 401
McLean, Virginia 22102
Telephone: (703) 714-1300
Facsimile: (703) 714-1330
E-mail: wac@commlawgroup.com
Website: www.CommLawGroup.com

July 26, 2018

Counsel for Data@ccess Communications, Inc.

I. Introduction

Data@ccess Communications, Inc. ("Data@ccess" or "the Company") was founded in 1999 and is a privately-owned provider of fixed wireless and fiber-based broadband Internet access services. Based in San Juan, the Company provides services throughout Puerto Rico. It provides Internet access services, Voice over Internet Protocol ("VoIP"), and resells telecommunications services as a CLEC. The Company's primary focus is providing principal and redundant services to commercial and government entities in Puerto Rico.

Like all other providers in the area, Data@ccess's operations, infrastructure, equipment and customer base were significantly affected by wind and other damage caused by Hurricanes Irma and Maria. During both hurricanes (Maria, in particular), Data@ccess personnel worked around the clock to maintain critical Internet service to its customers. Immediately following the hurricanes, Data@ccess began rebuilding and returning to normal operating conditions, primarily relying on its own resources, with some insurance support. As of today, Data@ccess has restored service to all of its customers.

Data@ccess applauds the Commission's commitment to restore, rebuild, improve, and expand upon voice and broadband networks in Puerto Rico. In particular, the Company appreciates the opportunity to both participate in Stage 1 of the Uniendo a Puerto Rico ("UPR") Fund for restoration funding, and to comment on the Commission's proposals for rebuilding, improving and expanding service through Stage 2 funding.¹ Should Data@ccess receive Stage 1 support, the Company will use the funds solely to restore and improve coverage and service quality to pre-hurricane levels and to help safeguard the Company's equipment against future natural disasters. The Company likewise hopes to secure Stage 2 support which it would use **[BEGIN CONFIDENTIAL - NOT FOR PUBLIC**

¹ *The Uniendo a Puerto Rico Fund and the Connect USVI Fund, et al.*, Order and Notice of Proposed Rulemaking, FCC 18-57, WC Docket Nos. 18-143, 10-90 and 14-58 (rel. May 29, 2018) ("NPRM"). See also *The Uniendo a Puerto Rico Fund and the Connect USVI Fund, et al.*, Order, DA 18-670, WC Docket Nos. 18-143, 10-90 and 14-58 (rel. June 27, 2018)

INSPECTION] [END CONFIDENTIAL - NOT FOR PUBLIC INSPECTION]. Data@ccess believes a negotiated process is the best means to ensure the appropriate allocation of funding to support the Commission's objectives. Through negotiation with the Commission, Data@ccess proposes to reach an agreement on the buildout of a specific redundant network, an effective and targeted solution to the Commission's objective for hardened and improved communications networks.

II. Stage One Funding

Data@ccess applauds the Commission's commitment to restoring critical communications networks in Puerto Rico without delay. In particular, the Company appreciates the FCC's invitation to any facilities-based providers of voice and broadband Internet access services, even if they have not previously received universal service support, to participate in Stage 1 of the UPR Fund. Data@ccess submitted its Stage 1 Funding Certification on June 27, 2018. If selected for much-needed critical infrastructure restoration funding, Data@ccess will use such support exclusively to help restore and improve coverage and service quality to pre-hurricane levels and to help safeguard the Company's equipment against future natural disasters. Specifically, Data@ccess will direct the funding toward repairing, removing damaged elements, reinforcing and relocating underground fiber optic network elements damaged by the hurricanes, as well as substituting and replacing customer premise equipment and installing new fiber on incumbent poles.

Restoration of the Company's communications networks is critical to ensure that both government entities and commercial enterprises receive ongoing access to necessary communications to provide public services and to support the Puerto Rican economy. In particular, Data@ccess's government customers require reliable access to communications to provide essential public safety and civic services. And, the Company's business enterprise customers require service to continue to operate and serve Puerto Rican consumers. The Company pledges to follow all Commission directives with respect to the expenditure of such funds, as well as any recordkeeping, filing or other administrative requirements.

III. Stage Two Funding

Data@ccess appreciates the Commission's long-term vision for rebuilding and improving communications networks in Puerto Rico. The Company supports the FCC's proposal to pledge \$444.5 million in support for rebuilding, improving and expanding fixed broadband services from the UPR Fund over the next ten years. Data@ccess also supports the Puerto Rico Telecommunications Regulatory Board ("PRTRB") in its lobbying for more funds due to its full view of the catastrophic damage to existing networks and its sustained commitment to hardening and providing the necessary resiliency and redundancy to avoid and/or dramatically reduce the damage Puerto Rico's telecommunications network suffered. Data@ccess agrees with the FCC's reservation of the majority of funding for expanding fixed networks as they were the most heavily damaged and in desperate need of rebuilding, improvement and expansion following hurricanes Irma and Maria. Moreover, as the Commission notes, these networks not only provide fixed voice and Internet access, but backhaul support for mobile services.

Specifically, the Commission proposes to direct \$105 million for rebuilding, while distributing all high-cost funding for fixed networks through an incentive-based mechanism. The FCC proposes to do so by revisiting existing frozen high-cost support mechanisms and replacing them with a competitive mechanism to allocate this \$105 million to fixed networks in Puerto Rico and the USVI (in an 80/20 ratio, respectively). Data@ccess supports the Commission's proposal to reconsider frozen high-cost funding for fixed networks to provide other facilities-based providers, besides the incumbent, the opportunity to benefit from these funds.² As the Commission notes, the hurricanes and their

² In certain cases, the Commission has assigned universal service funds for specific projects not meeting the general criteria for high cost support. For example, in the aftermath of hurricane Katrina, the Commission directed high cost funding to be used in support of restoration and network improvement efforts. *See In re Federal-State Joint Board on Universal Service*, CC Docket No. 96-45; *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6; *Rural Health Care Support Mechanism*, WC Docket No. 02-60; *Lifeline and Link Up*, WC Docket No. 03-109, Order, ¶ 55 (2005). Moreover, the entire island of Puerto Rico is arguably a high-cost area, qualifying any network builds on the island for high cost support. *See, e.g., In the Matter of 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, Order and Notice of Proposed Rulemaking at ¶ 15 (2018). **[BEGIN CONFIDENTIAL - NOT FOR PUBLIC INSPECTION]**
[END CONFIDENTIAL - NOT FOR PUBLIC INSPECTION].

REDACTED PUBLIC VERSION

aftermath have caused such devastating damage to all existing networks that the current support levels will no longer be sufficient to support all the networks that require massive rebuilding and restoration to achieve pre-hurricane functionality. Data@ccess does not agree that allocating 80% of this funding to Puerto Rico and 20% to the USVI is appropriate in light of the size and population differences between the two and the financial challenges faced by carriers in both areas. The Company proposes that the funds be allocated based on the relative geographical size and the number of U.S. citizens living in these territories, according to the latest statistical data of the United States Census Bureau.

To award high-cost support, the Commission proposes four options:

1. A competitive proposal process, similar to a request for proposal process;
2. Auctions;
3. Negotiating with ETCs; or
4. Establishing build-out obligations while continuing to provide frozen high-cost support at current levels.

Of these options, Data@ccess believes a negotiated solution will be the best means to achieve the Commission's goals. The auction process may be lengthier and delay the injection of critical funds into rebuilding and expanding networks. Moreover, because it focuses exclusively on price, it will not consider factors which should be weighed in determining eligibility for funding (such as resiliency of the network, whether under or unserved communities are being reached, etc.). Frozen support likewise is not the best means to advance the FCC's objectives. In light of the present circumstances (extensive damage caused by hurricanes Irma and Maria), the current support levels will no longer be sufficient to support networks that require massive rebuilding and restoration to achieve pre-hurricane functionality and at the same time provide enough funds for hardening the infrastructure and providing redundancy to avoid a total disconnection in the future.

A negotiated solution would allow Data@ccess to reach an agreement with the Commission to build a specific redundant network, an effective and targeted solution to the Commission's objective

REDACTED PUBLIC VERSION

for hardened and improved communications networks. Moreover, such a solution would ensure a redundant network to prevent the historic deficiency and dependence on **[BEGIN CONFIDENTIAL - NOT FOR PUBLIC INSPECTION] [END CONFIDENTIAL - NOT FOR PUBLIC INSPECTION]**, risking all of the island communications in case of another disaster impacting **[BEGIN CONFIDENTIAL - NOT FOR PUBLIC INSPECTION] [END CONFIDENTIAL - NOT FOR PUBLIC INSPECTION]** the island **[BEGIN CONFIDENTIAL - NOT FOR PUBLIC INSPECTION] [END CONFIDENTIAL - NOT FOR PUBLIC INSPECTION]**.

IV. Data@ccess Proposal

As noted above, Data@ccess believes a negotiated process will best achieve the Commission's goals. Should the Company be awarded UPR funding, Data@ccess proposes to not only repair damage to its existing infrastructure but to expand its fiber-based broadband network to deliver cost-effective service to underserved communities. **[BEGIN CONFIDENTIAL - NOT FOR PUBLIC INSPECTION] [END CONFIDENTIAL - NOT FOR PUBLIC INSPECTION]**. There is an immediate need in Puerto Rico **[BEGIN CONFIDENTIAL - NOT FOR PUBLIC INSPECTION] [END CONFIDENTIAL - NOT FOR PUBLIC INSPECTION]** to create necessary redundancy for connections **[BEGIN CONFIDENTIAL - NOT FOR PUBLIC INSPECTION] [END CONFIDENTIAL - NOT FOR PUBLIC INSPECTION]** in the event of a failure of the primary network. Other parties have recognized this crucial need **[BEGIN CONFIDENTIAL - NOT FOR PUBLIC INSPECTION] [END CONFIDENTIAL - NOT FOR PUBLIC INSPECTION]**.

This network will provide redundancy in the event of natural disaster (as an alternative to existing incumbent networks) as well as support other ETCs' efforts to reach underserved communities (i.e. advance broadband deployment in rural areas). Rural infrastructure needs to be hardened to provide necessary redundancy of existing transmission routes in the event of another service outage. Having such a redundant network would ensure limited interruptions in the event of a natural disaster and help avoid a collapse of the island's communications network.

REDACTED PUBLIC VERSION

During both hurricanes (Maria, in particular), Data@ccess personnel worked around the clock to maintain critical Internet service to its customers. Immediately following the hurricanes, Data@ccess began rebuilding and returning to normal operating conditions, primarily relying on its own resources, with some insurance support. As of today, Data@ccess has restored service to all of its customers. The Company still requires some support to restore its network to pre-hurricane performance levels. However, Data@ccess is already looking forward, and is eager for an opportunity to participate in Stage 2 funding to support the upgrade and expansion of services across Puerto Rico.

V. Conclusion

In sum, Data@ccess applauds the Commission's commitment to rebuild and expand upon voice and broadband networks in Puerto Rico. In particular, the Company appreciates the opportunity to both participate in Stage 1 of the UPR Fund for restoration funding, and to comment on the Commission's proposals for rebuilding, improving and expanding service through Stage 2 funding. Should Data@ccess receive Stage 1 support, the Company will use the funds solely for restoration and network safeguarding. The Company likewise hopes to secure Stage 2 support which it would **[BEGIN CONFIDENTIAL - NOT FOR PUBLIC INSPECTION] [END CONFIDENTIAL - NOT FOR PUBLIC INSPECTION]**. A negotiated process would ensure the appropriate allocation of funding to support these objectives, which align with the Commission's goals. Through negotiation with the Commission, Data@ccess hopes to reach an agreement on the buildout of a specific redundant network, an effective and targeted solution to the Commission's objective for hardened and improved communications networks.

/s/ Walter Arroyo
Walter Arroyo
MARASHLIAN & DONAHUE, PLLC
The *Comm*Law Group
1420 Spring Hill Road, Suite 401
McLean, Virginia 22102
Telephone: (703) 714-1300
Facsimile: (703) 714-1330
E-mail: wac@commlawgroup.com
Website: www.CommlawGroup.com
Counsel for Data@ccess Communications, Inc.

July 26, 2018