

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
The Uniendo a Puerto Rico Fund and the Connect)	WC Docket No. 18-143
USVI Fund)	

To: The Commission

COMMENTS OF BROADBAND VI, LLC

Broadband VI, LLC (“Broadband VI”), by counsel and pursuant to Sections 1.415 and 1.419 of the Commission’s Rules, hereby comments on proposed rules and procedures for Stage 2 of the Connect USVI Fund (the “USVI Fund”).¹ As explained below, Broadband VI largely supports the proposals offered by the Commission in the *NPRM*. Adopting these proposals, as modified by the recommendations described herein, will help ensure that the USVI Fund is best positioned to aid in the rebuilding, improvement and expansion of broadband networks throughout the U.S. Virgin Islands.

Introduction

Broadband VI began operations in 2004, and today is one of the leading providers of fixed broadband service in the Virgin Islands. The company relies primarily on unlicensed spectrum, which enables it to deploy quickly in a cost-effective manner to deliver affordable fixed broadband service to the public. Broadband VI is also expanding its “last mile” capability by deploying additional underground fiber-to-the premise (“FTTP”) to its customers’ homes and businesses.

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) (extending Comment deadline to July 26, 2018). Broadband VI’s Comments are limited to addressing the USVI Fund program, and Broadband VI takes no position on rules the Commission may adopt for the Uniendo a Puerto Rico Fund.

Prior to Hurricanes Irma and Maria in 2017, Broadband VI provided fixed broadband service to more than 7,000 residential and business customers. The devastation wrought by the hurricanes, however, significantly compromised the ability of Broadband VI to provide its services. By aggressively repairing hurricane damage as soon as it could, including rebuilding nine towers, replacing equipment at each of its tower sites, and rebuilding and re-aligning dishes, at a cost of more than \$2 million of its own money, Broadband VI fully restored its services. Today, Broadband VI serves more than 9,300 subscribers across all three of the inhabited Virgin Islands.

Yet despite the full restoration of services, Broadband VI still faces a daunting, and costly, list of needs to improve its services and protect against possible future natural disasters. On June 27, 2018, Broadband VI submitted a Certification to the Commission seeking Stage 1 USVI Fund support for accelerated, one-time funding to help Broadband VI cover the short-term costs of rebuilding its network and restoring service to customers.² But, as the Commission acknowledges, one-time, short-term support will not be sufficient to meet the long-term needs of the Virgin Islands public. Extended support in the form of Stage 2 funding is necessary to improve services and guard against disruption in broadband access from future natural disasters. Broadband VI applauds the efforts of the Commission to establish a long-term funding mechanism to aid in the restoration and protection of Internet services on the Virgin Islands, and offers the following comments to help guide the Commission in implementing this important endeavor.

² See Letter from Mike Meluskey, WC Docket No. 18-143 (filed June 27, 2018). On that same day, Broadband VI also submitted an application to the U.S. Virgin Islands Public Service Commission seeking designation as an eligible telecommunications carrier (“ETC”).

Discussion

I. THE PROPOSED BUDGET AND FUNDING TERM FOR THE USVI FUND ARE APPROPRIATE

The Commission proposes to make \$186.5 million available over a ten-year term for supporting fixed broadband networks in the Virgin Islands.³ Broadband VI believes that this figure is an appropriate amount that properly accounts for the relatively higher costs that fixed providers face compared to mobile providers, but funding levels should be reassessed at the halfway point of the funding term.⁴

Broadband VI agrees that a ten-year funding term for fixed services and a three-year funding term for 4G mobile services are appropriate.⁵ The difference of seven years is necessary in light of the longer and more expensive deployment time for fixed technology. For example, Broadband VI is currently deploying a pre-5G fixed wireless solution capable of 2.5 Gbps over the air, but the range on those access points is less than half a mile. By contrast, a mobile provider can connect thousands of customers many miles away from a single tower. With the anticipated financial assistance from Stage 1 of the USVI Fund, Broadband VI will be able to deploy its fixed wireless 5G service to 75 percent of the Territory's population in the next 12 months. With Stage 2 support, Broadband VI will continue its build-out and, if allocated sufficient funding, deploy additional underground FTTP.

The Commission should terminate and not phase down support to Viya, the incumbent local exchange carrier, and should deny its request for an additional \$45 million in supplemental support.⁶ Although Viya has been receiving federal support for many years, its network has

³ See *NPRM* at ¶ 30.

⁴ See *id.* at ¶ 67.

⁵ See *id.* at ¶ 30.

⁶ See *id.* at ¶¶ 41 and 98.

proven to be vulnerable to hurricanes and slow to be rebuilt.⁷ Given this unfortunate track record, now is the time to allocate support to others, like Broadband VI, that have quickly restored and even expanded service at their own considerable expense, without federal support. To single out Viya at the expense of its competitors – especially where the Commission can act on the Stage 1 certifications promptly – would send the wrong message.

II. THE BEST APPROACH TO AWARD USVI FUNDING IS THROUGH A NEUTRAL COMPETITIVE PROCESS

A. A Competitive Process Will Award Support More Quickly Than Any Alternative Process

The paramount objective when determining the best method to award Stage 2 support should be getting funds into the hands of providers as quickly and efficiently as possible. To that end, Broadband VI urges the Commission to award support through a competitive application process.⁸ A competitive process will be the most expeditious because only a small number of applicants can be expected to request Stage 2 USVI Fund support, enabling the Commission to review, compare and act on the applications in short order.⁹

Broadband VI cautions, however, that the competitive proposal process needs to be objective, transparent and not unfairly influenced by the participation of Viya, the incumbent local exchange carrier, which has been receiving high-cost support for more than 20 years. If any undue advantage is afforded the incumbent as part of the competitive process, then

⁷ According to a news report, Viya's network was less than 25 percent restored five months after Hurricane Maria. See Virgin Islands Daily News, Feb. 23, 2018 available at http://www.virginislandsdailynews.com/news/viya-internet-restoration-less-than-a-quarter-complete/article_9c26d813-62fa-5eaa-a147-d1ce7f76f233.html (last visited July 26, 2018). Moreover, according to earnings reports of ATN International, the parent company of Viya, less than 33 percent of Viya's residential customers were reconnected to the network six months – and less than 60 percent of Viya's customers were reconnected ten months – after Hurricane Maria. See ATN International's (ATNI) CEO Michael Prior on Q1 2018 Results – Earnings Call Transcript, Apr. 26, 2018 available at <https://seekingalpha.com/article/4166397-atn-internationals-atni-ceo-michael-prior-q1-2018-results-earnings-call-transcript> (last visited July 26, 2018) and ATN Reports Second Quarter 2018 Reports, July 25, 2018 available at <https://www.nasdaq.com/press-release/atn-reports-second-quarter-2018-results-20180725-01390> (last visited July 26, 2018).

⁸ See NPRM at ¶ 39.

⁹ The docket indicates that only two providers applied for Stage 1 USVI Fund support for fixed broadband: ATN International, the parent company of Viya, and Broadband VI.

Broadband VI believes that the single-round, sealed bid approach should be used instead because it eliminates any subjectivity inherent in reviewing competing proposals.¹⁰

To the extent the Commission does not allocate the entire Stage 2 budget, it may find it advisable, even preferable, to award support to more than one fixed service provider in an area. While the Universal Service Fund has not historically been used to subsidize multiple providers in the same area, the Virgin Islands present a special case for redundancy given its particular vulnerability to devastating natural disasters. Awarding funding to more than one provider in a single area will be the first line of defense against the likelihood of another significant interruption of broadband service on the Territory and provide redundancy for the benefit of consumers.

B. Only Existing Providers At The Time Of The Hurricanes Should Be Eligible For USVI Fund Support

Only those network operators servicing customers on all three Virgin Islands prior to the 2017 hurricanes should be eligible to apply for USVI Fund support, with data from the June 2017 FCC Form 477 used to determine such eligibility.¹¹ Limiting funding to only established entities will help ensure that Stage 2 funding is properly spent. It is not an easy task to provide broadband service in the Virgin Islands with or without hurricanes, and business failures in the Territory's communications sector are not unusual. Simply put, there is too much risk in funding new entrants that do not have the experience and understanding of how to build and operate a successful network in the Virgin Islands.

Broadband VI also agrees that financial and technical capabilities should be part of the evaluation process, and that such capabilities should be assessed through a single-stage

¹⁰ The Commission should reject the negotiated alternative and frozen-support alternative. *See NPRM* at ¶¶ 75-77 and ¶¶ 78-79. Negotiations could exclude participation by other qualified providers and lack transparency. Frozen-support will make funding only available to the incumbent local exchange carrier which, as noted above, does not have track record of building resilient networks or in quickly restoring service.

¹¹ *See id.* at ¶ 42.

application process.¹² Unlike multi-stage application processes (such as the approach the Commission is using in the Connect America Fund (“CAF”) Phase II auction), a single-stage application approach promotes the awarding of support on an expedited basis. To be eligible for support, each applicant should demonstrate to the Commission’s satisfaction that it will deploy technology that will support a specific disaster recovery plan. Applicants selected for funding can be subject to more rigorous financial and technical review as a condition to receiving support.

Broadband VI agrees with the Commission’s proposal to permit providers to obtain ETC designation after winning support rather than before.¹³ Permitting entities in the process of obtaining ETC designation, including Broadband VI,¹⁴ will allow for a more robust level of Stage 2 participation. The Commission adopted similar processes for the rural broadband experiment program and the CAF Phase II reverse auction, and there is no justification to adopt a different, more limiting approach here.

C. USVI Fund Support Should Be Made Available Across All Of The Virgin Islands

The Commission proposes that all of the Virgin Islands be eligible for Stage 2 funding and not just select areas of the Territory.¹⁵ Broadband VI supports this proposal because the entire Virgin Islands, and not just certain areas, needs its broadband infrastructure hardened. As the Commission explains, doing so will encourage applicants to expand service to areas that were previously unserved or underserved.¹⁶ No area within the Territory should be excluded from funding.

¹² See *id.* at ¶ 43.

¹³ See *id.* at ¶ 44.

¹⁴ As noted above, Broadband VI submitted an ETC application with the U.S. Virgin Islands Public Service Commission on June 27, 2018.

¹⁵ See *NPRM* at ¶¶ 45-46.

¹⁶ See *id.* at ¶ 45.

The Commission asks whether the minimum geographic area for bidding on USVI Fund support should be the Virgin Islands as a whole or smaller areas.¹⁷ Broadband VI believes that the entire Virgin Islands should be treated as a single geographic bidding area. This approach will allow award recipients to save costs by increasing their level of production to a degree that only makes economic sense if the islands are serviced collectively. It will also promote a uniform, consistent level of service to all Virgin Islanders. Moreover, designating the entire Virgin Islands as the minimum geographic area supports the position advanced above to allow for USVI Fund support to flow to more than one provider.

Should the Commission nonetheless decide to allocate support for smaller geographic areas, USVI Fund recipients should be required to deploy service to all locations within the areas designated for support and not just those locations that are funded.¹⁸ As the Commission observes, this requirement would be consistent with the goals of the USVI Fund to support deployment throughout the entire Territory.¹⁹ If, however, the Commission uses data that overestimates the number of locations eligible for support – a likely scenario given that many residents have relocated away from the Virgin Islands – the Commission should allow recipients to provide evidence that there are fewer locations and have support reduced pro rata.²⁰ The Commission adopted a similar approach in the CAF Phase II process based on submissions that generally showed that the Commission’s data overstates the number of locations.²¹ Recipients should be able to make this showing on an annual basis, not just one time, given the anticipated ongoing transient nature of the islands’ population.

¹⁷ *See id.* at ¶ 48.

¹⁸ *See id.* at ¶ 49.

¹⁹ *See id.*

²⁰ *See id.* at ¶ 51.

²¹ *See* Public Notice, “Connect America Fund Phase II Auction Scheduled for July 24, 2018 Notice and Filing Requirements and Other Procedures for Auction 903,” FCC 18-6 (rel. Feb. 1, 2018), at 9.

D. The Selection Process Should Favor Network Resiliency Over Any Other Bid Adjustment

The Commission proposes to select winning proposals based primarily on price per-location but only after taking into account adjustments for network resiliency, network deployment timing, and network performance.²² Broadband VI agrees that the per-location approach is the best method and also believes that, of the three bid adjustments cited, network resiliency should be accorded more weight than either network deployment time or performance metrics. Above all else, USVI Fund support needs to pay for a network that will *survive* a Category 5 hurricane. A quickly deployed, fast network that gets destroyed in a storm invariably disserves the public interest and undermines long-term federal and private investment. By contrast, a thoroughly hardened FTTP network of the type Broadband VI anticipates deploying with Stage 2 funding may take five to ten years to build out but will remain operating when more vulnerable networks are rendered useless by the next hurricane. As previously noted, the years of providing high-cost support to Viya proved to be an inefficient use of money given that Viya's network was almost entirely destroyed in the aftermath of the 2017 hurricanes, and the effort to rebuild the network and reconnect customers has been slow.²³

Although network resiliency is paramount, network performance matters too. Broadband VI believes that the performance factor should be download/upload speeds of at least 10/1 Mbps, with roundtrip latency of no greater than 100 milliseconds – although it supports granting a preference to bidders offering download/upload speeds of up to 25/3 Mbps.²⁴

In the event the Commission establishes multiple smaller bidding units than the Territory-wide approach Broadband VI recommends, the Commission should not permit package

²² See *NPRM* at ¶¶ 54-59. The Commission also proposes to allow proposals to be confidential. See *id.* Broadband VI supports this proposal.

²³ See n. 7, *supra*.

²⁴ See *NPRM* at ¶ 60.

bidding.²⁵ Permitting bids to include more than one geographic area will needlessly complicate a competitive proposal process likely to involve only a limited number of participants. Broadband VI also believes that bids should be evaluated by the Wireline and Wireless Bureaus rather than the Universal Service Administrative Company.²⁶

E. The FCC Should Adopt Its Proposed Service And Deployment Obligations But Offer Applicants The Option To Post A Performance Bond

Broadband VI agrees that support recipients should offer broadband service that meets the metrics proposed by the Commission – namely, 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 GB per month or one that reflects the average usage of a majority of consumers.²⁷ Broadband VI also supports the proposal to require USVI Fund recipients to offer broadband service in supported areas at rates that are reasonably comparable to rates offered for comparable services in urban areas.²⁸ In addition, USVI Fund recipients should, as is the case with CAF Phase II support recipients, complete deployment by the sixth year of support, using the graduated rollout of service proposed by the Commission.²⁹

The Commission has a statutory obligation to ensure that support recipients use any funding received only for the purposes for which the support was intended. To that end, Broadband VI generally agrees with the oversight and accountability measures proposed by the Commission.³⁰ Broadband VI in particular agrees with the Commission's suggestion that it reassess the deployment obligations of the awarded support before the end of the fifth year of support.³¹ While this should not be an excuse for recipients to fall short of meeting performance

²⁵ See *id.* at ¶ 56.

²⁶ See *id.* at ¶ 57.

²⁷ See *id.* at ¶ 60.

²⁸ See *id.* at ¶ 62.

²⁹ See *id.* at ¶ 63.

³⁰ See *id.* at ¶¶ 64-70.

³¹ See *id.* at ¶ 67.

obligations, an opportunity to revisit deployment will enable all parties to reset expectations that may, in a difficult environment, prove to be incorrect due to factors such as weather events, permitting delays, and other unanticipated circumstances.

Broadband VI disagrees, however, with any requirement that recipients must first obtain a letter of credit (“LOC”) as is the case for winning bidders in the CAF Phase II auction.³² Obtaining an LOC is an extreme challenge in the Virgin Islands due to the inherent limitations of local banking operations. As an option available to applicants, the Commission should allow support recipients, as a condition to obtaining support, to obtain a performance bond equal to the amount of funding. As with performance bonds generally, these Stage 2 bonds can be reduced over time as deployment milestones are met, thereby reducing the recipient’s financial exposure but without increasing the Commission’s financial risk in case of a default.

Conclusion

For the foregoing reasons, Broadband VI largely supports the Commission’s approach to awarding critically needed long-term funding to rebuild, improve and expand broadband networks in the U.S. Virgin Islands. Broadband VI urges the Commission to adopt its proposals, as modified in these Comments, expeditiously so that long-term support for the restoration effort can flow as soon as possible.

Respectfully submitted,
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July 26, 2018

³² See *id.* at ¶ 69.