



August 8, 2018

VIA ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, D.C. 20554

Re: The Uniendo a Puerto Rico Fund and the Connect USVI Fund, Connect America Fund, ETC Annual Reports and Certification, WC Docket Nos. 18-143, 10-90, and 14-58

Dear Ms. Dortch:

Hughes Network Systems, LLC (“Hughes”) submits these reply comments in the above-referenced proceedings.¹ The record in the initial round of comments overwhelmingly demonstrates that satellite services must be included as a portion of the broadband infrastructure in Puerto Rico and the U.S. Virgin Islands and should be included in any universal service funding made available for the territories. The Federal Communications Commission (“Commission”) must take these comments into account and address the issues in its proposal that prevent the participation of satellite operators in this Universal Service Fund (“USF”) proceeding, including the arbitrary selection of the June 2017 Form 477 data filing as a cut-off date for participation; the unjustified application of latency requirements; and the decision to award funds using non-transparent, anti-competitive, subjective processes. Failure to do so will result in the residents of Puerto Rico and the U.S. Virgin Islands being denied access to truly resilient and reliable broadband services that have served them well in the past and will continue to do so in the future.²

As the record in this proceeding and recent history clearly demonstrate, there is a need to deploy truly resilient telecommunications networks that requires satellite services to be deployed as part of the territories’ broadband network infrastructure. More than 15 Puerto Rican community-based organizations filed comments in this proceeding imploring the Commission to understand that “any long-term investment in the communications infrastructure of Puerto Rico [and the U.S. Virgin Islands] must include satellite technology. Not only must satellite technology be included, it must be a priority in any restoration funding efforts.”³

Hughes currently provides Commission-defined broadband service of 25/3 Mbps in both Puerto Rico and the U.S. Virgin Islands to a mix of residential, enterprise, and government users. In partnership with the Federal Emergency Management Administration and other government agencies, Hughes was on the ground in Puerto Rico and the U.S. Virgin Islands restoring service to

¹ *The Uniendo a Puerto Rico Fund and the Connect USVI Fund, et al. Order and Notice of Proposed Rulemaking*, FCC 18-57 (2018) (“*PR/USVI Fund NPRM*”).

² See e.g., Comments of Liga de Cooperativas de Puerto Rico, WC Docket No. 18-143 et. al., Jul. 2, 2018 (“*Liga de Cooperativas Comments*”); see also Comments of the Puerto Rico Manufacturers Association, WC Docket No. 18-143 (Jul. 3, 2018) (“*PRMA Comments*”); see also Casa Pueblo, WC Docket No. 18-143 et. al (Jul. 5, 2018) (“*Casa Pueblo Comments*”).

³ See e.g. Comments of Campo Rico Group, Inc./CRG Communications, WC Docket No. 18-143 et al., Jul. 25, 2018 (emphasis in original) (“*CRG Comments*”); see also *Liga de Cooperativas Comments*; see also *Casa Pueblo Comments*.

residents who no longer had access to terrestrial telecommunications infrastructure.⁴ Hughes remains in operation in the territories today providing these critical services to residential, enterprise, and government customers.

With no last-mile build out requirements, satellite broadband is the quickest and simplest service to deploy as part of the Commission's restoration and expansion of Puerto Rico and the U.S. Virgin Islands' telecommunications networks. Moreover, adding additional access to satellite networks in the overall communications infrastructure will ensure that broadband services are resilient. However, despite these benefits, the Commission has proposed rules that will ensure satellite operators cannot participate in this funding opportunity. The Commission must modify these requirements in order to facilitate a level-playing field for all technologies to participate in this USF proceeding.

First, the adoption of the June 2017 Form 477 data submission as the determinant of which companies can participate in this USF proceeding is arbitrary and without merit. As of this date, no satellite operators were providing broadband services in the territories. Hughes launched its HughesNet Gen5 service in Puerto Rico just ahead of the first major hurricane in July 2017, and continued to maintain service during and following the storms.⁵ HughesNet Gen5 was launched in the U.S. Virgin Islands in November 2017 to assist with hurricane relief, and has continued to increase subscribership ever since.⁶ Accordingly, by setting the cut-off to June 30, 2017, the Commission selected a date that would exclude satellite operators, despite the fact that satellite operators have already demonstrated their ability to "expand service as quickly as possible," thus assuaging the Commission's stated reason for imposing the cutoff date.⁷ Rather, the Commission should require that eligible providers have a demonstrated record of providing the service being bid prior to June 13, 2018, the date this proceeding was initiated.

Second, the Commission's proposed 100 millisecond latency performance requirement excludes many spectrum-based operators from participating in the USF proceeding without providing any real-world justification. Most of the heavy-use, broadband-enabled applications are not latency sensitive services. Applications such as video streaming, web browsing, and accessing email and social media can be delivered with equal consumer satisfaction by high throughput satellite services.⁸ Per agreed upon International Telecommunication Union recommendations, latency values seen over satellite links are acceptable for most applications, including latency up to 400 milliseconds (from mouth to ear) for voice service; windowing, proxies, and other schemes for video streaming performance; and caching, compression, and other mechanisms for accelerating browsing.⁹ In fact, as previously noted, since the launch of the HughesNet Gen5 service, Hughes has experienced four consecutive quarters of decreased retail consumer churn; demonstrating that customers are opting to keep their satellite broadband service even when presented with an alternative technology option.¹⁰ If a latency standard is required, the Commission should base the threshold on real world latency requirements for the satisfactory delivery of broadband applications.

Finally, the decision to revert to subjective procedures to award USF funds opens the door to potential reviewer bias. The need for expediency should not diminish the need for transparency and objectivity when addressing access to funding. Expediency alone is not a sufficient basis to

⁴ See Comments of Hughes, PS Docket No. 17-344 et. al., Jan. 22, 2018 ("*Disaster Relief Comments*").

⁵ See Comments of Hughes Network Systems, LLC, WC Docket No. 18-143, Jul. 28, 2018 ("Hughes Comments").

⁶ Ibid.

⁷ PR/USVI Fund NPRM, at ¶ 18.

⁸ See Comments of SES Americom, Inc. and O3b Limited, WC Docket No. 18-143 et. al., Jul. 26, 2018 ("SES Comments").at pg. 3.

⁹ ITU-T Recommendation G.114: One-way transmission time (May 2003).

¹⁰ EchoStar First Quarter 2018 Investor Call (May 10, 2018).

diverge from 30 years of USF precedent.¹¹ Hughes urges the Commission to revert to its practice of distributing USF awards based on a competitive bidding approach.¹² By utilizing a competitive bidding structure the Commission can ensure that funds will be awarded on a technology neutral basis, with no overseer bias. As part of the scoring, the Commission is welcome to include factors such as resiliency, timing of deployment, and cost per location, to ensure that its priorities on deployment and expansion of broadband networks are met.

In order to meet the communication infrastructure needs of Puerto Rico and the U.S. Virgin Islands, it is critical that the Commission adopt bidding criteria that clearly permits the participation of all technologies, including satellite, in its proposed USF program. The Commission must adopt a participation cut-off date that reflects demonstrated deployment capabilities on the territories; adopt and justify latency requirements that are technology neutral; and award funding based on objective, technology neutral procedures. By adopting rules that meet these requirements, the Commission can ensure that residents of Puerto Rico and the U.S. Virgin Islands have access to broadband infrastructure that meets their broadband needs and that provides them with life-saving communications during emergencies.

Please direct any questions regarding this filing to the undersigned.

Sincerely,

/s/ Jennifer A. Manner

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¹¹ See Hughes Comments, at pgs. 18-19.

¹² Connect America Fund et al., Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 949, 6020-27 (2016).