

September 16, 2019

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

**Re: WorldNet Telecommunications, Inc. Request for Confidentiality for  
Information Provided as Part of *Ex Parte* Letter filed in WC Docket No.  
18-143**

Dear Ms. Dortch:

Pursuant to Sections 0.457 and 0.459 of the Commission's rules, WorldNet Telecommunications, Inc. ("WorldNet") hereby requests confidential treatment of certain confidential business information contained in documents being filed today as part of WorldNet's *ex parte* letter. Specifically, WorldNet requests that the presentation marked "**CONFIDENTIAL—NOT FOR PUBLIC INSPECTION**" in the letter be withheld from routine public inspection, as it contains sensitive business information including details regarding WorldNet's post-Hurricane Maria network restoration and deployment efforts and plans ("confidential information"). WorldNet has never made this confidential information public.

Section 0.457(d) of the Commission's rules provides that this information is automatically protected under the Commission's confidentiality procedures because it contains trade secret information.<sup>1</sup> Section 0.457 of the Commission's rules also require that the Commission treat as confidential documents that contain "trade secrets and commercial or financial information . . . not routinely available for public inspection."

As you are aware, these Commission regulations implement and incorporate exemptions from the Freedom of Information Act, 5 U.S.C. § 552(b)(4), and the Trade Secrets Act, 18 § 1905. *See* 47 C.F.R. § 0.457(d). Under these exemptions, information is exempt from public disclosure if it is (1) commercial or financial in nature, (2) obtained from a person, and (3) privileged or confidential in nature. 5 U.S.C. § 552(b)(4). The information being provided by WorldNet is exempt from public disclosure under the aforementioned exemptions and the FCC's regulations because it constitutes commercial and financial information, obtained from a person, which is confidential in nature.<sup>2</sup>

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<sup>1</sup> 47 C.F.R. § 0.459(a) ("If the materials are specifically listed in § 0.457, such a request is unnecessary.")

<sup>2</sup> Under Exemption 4 of the FOIA, the terms "commercial" and "financial" are to be given their "ordinary meaning," and thus include information in which a submitter has a "commercial interest" *Public Citizen Research Group v. FDA*, 704 F.2d 1280, 1290 (D.C. Cir. 1983); *accord, Washington Research Project, Inc. v. HEW*, 504 F.2d 238, 244 n.6 (D.C. Cir. 1974), *cert denied*, 421 U.S. 963 (1975). "Commercial interest" has been interpreted broadly to include anything "pertaining or relating to or dealing with commerce." *American Airlines, Inc. v. National*

Similarly, Section 1905 of Title 18 of the United States Code makes it unlawful for federal government agencies or employees to disclose information relating to “the trade secrets, processes, operations, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm partnership, corporation, or association...” Information that is exempt from release under Exemption 4 of the FOIA is prohibited from being disclosed, under 18 U.S.C. § 1905, unless disclosure is “authorized by law” by another statute other than FOIA.<sup>3</sup> Because no other statute authorizes the release of the information at issue here, disclosure of the confidential information is prohibited by the criminal provisions of 18 U.S.C. § 1905.<sup>4</sup>

Nevertheless, out of an abundance of caution, WorldNet is also making a showing that the information would also qualify for protection pursuant to Commission rule 0.459.<sup>5</sup> As required in rule 0.459, WorldNet is providing below a statement of the reasons for withholding the information marked confidential, as well as a statement of facts underlying the information. If upon review of this request, the Wireline Competition Bureau or any other Bureau or Office of the Commission, or the Commission itself, decides not to grant this request, WorldNet requests that all Commission staff refrain from reviewing the enclosed materials and immediately contact the undersigned counsel who will retrieve the confidential materials as soon as possible.

(1) Identification of the specific information for which confidential treatment is sought;

WorldNet seeks to withhold from public inspection and otherwise seeks confidential treatment of the confidential information.

(2) Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission;

WorldNet is providing this confidential information to the Commission to support its comments regarding the structure of Phase 2 of the new Uniendo a Puerto Rico fund announced in WC Docket 18-143.

(3) Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged;

WorldNet does not publicly disclose its sensitive business such as the status and project-

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*Mediation Bd.*, 588 F.2d 863, 870 (2d Cir. 1978). The term “person,” for FOIA purposes, includes entities such as BHN. *See, e.g., Critical Mass Energy Project v. Nuclear Regulatory Comm’n*, 830 F.2d 871 n.15 (D.C. Cir. 1987) (“For FOIA purposes a person may be a partnership, corporation, association, or public or private organization other than an agency.”).

<sup>3</sup> *See Chrysler Corp. v. Brown*, 441 U.S. 281 (1979) (Exemption 4 and 18 U.S.C. § 1905 are “coextensive” and § 1905 prohibits the disclosure of confidential business information unless release is authorized by a federal statute other than FOIA); *see also* 47 C.F.R. § 0.457(d).

<sup>4</sup> *See CAN Fin. Corp. v. Donovan*, 830 F.2d 1132, 1151 (D.C. Cir. 1987).

<sup>5</sup> 47 C.F.R. § 0.459.

planning details of its network deployments, and takes particular caution to ensure that such information is not disclosed to competitors. Disclosure of the confidential information would put WorldNet at a disadvantage in negotiating with potential customers and business associates, would damage its standing in the industry.

(4) Explanation of the degree to which the information concerns a service that is subject to competition;

Competition exists among the providers that provide telecommunications services in Puerto Rico.

(5) Explanation of how disclosure of the information could result in substantial competitive harm;

Disclosure of the confidential information would give competitors an unfair advantage by providing them with sensitive information that they could use to unfairly compete with WorldNet.

(6) Identification of any measures taken by the submitting party to prevent unauthorized disclosure;

WorldNet has consistently sought to keep the confidential information from being publicly disclosed, and has only shared this information with its attorneys and any other consultants on a need-to-know basis.

(7) Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties;

This information has never been made available to or otherwise disclosed to the public except to attorneys and similar advisors on a need-to-know basis.

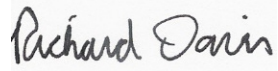
(8) Justification of the period during which the submitting party asserts that material should not be available for public disclosure; and

WorldNet does not foresee a determinable date or timeframe after which it will no longer consider this information highly confidential, commercially-sensitive trade secret information.

(9) Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted.

The foregoing establishes that this confidential information is subject to confidential treatment pursuant to the FCC's rules at 47 C.F.R. sec. 0.457, 0.459, and 18 U.S.C. sec. 1905, and that it contains information containing trade secrets, and commercial and financial information in a company- specific manner that has not been previously made public, and that is otherwise prohibited from being publicly disclosed.

Respectfully submitted,

A handwritten signature in black ink that reads "Richard Davis". The signature is written in a cursive style with a large, stylized 'R' and 'D'.

Richard Davis  
Counsel to WorldNet Telecommunications, Inc.

**PUBLIC REDACTED VERSION**

September 16, 2019

**VIA ECFS (Public Version)**

**OVERNIGHT DELIVERY (Confidential Version)**

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

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

Dear Ms. Dortch:

WorldNet Telecommunications, Inc. (“WorldNet”) respectfully submits this letter as a supplement to its previous submissions in this docket. In particular, WorldNet now offers the following feedback on the draft Report and Order and Order on Reconsideration released by the Commission on September 5, 2019 (“Draft Order”).

**1. Report & Order**

At the outset, WorldNet would again like to thank the Commission for its efforts in this and other recent proceedings to assist Puerto Rico in its continuing efforts to recover from the 2017 hurricane season and to prepare for future hurricane seasons. The obstacles and issues that Puerto Rico has recently faced, and continues to face, are sizable and complex, and WorldNet appreciates the Commission’s attention and efforts, including in this proceeding, to help Puerto Ricans overcome and resolve them. While, given the breadth of the Draft Order, there are a number of issues that concern WorldNet, we would like here, respectfully, to identify and focus on just a short handful of thoughts and concerns with the Draft Order and its proposals to establish the process for Stage II funding for Puerto Rico.

WorldNet respectfully submits that the Commission should re-prioritize and re-score the three proposed factors (i.e., price, network performance, and network resiliency) for selecting winning applicants in the second stage bidding process. The Draft Order places the highest importance in the bidding process on price per location, with network resiliency awarded the least importance. The order of these considerations should be shifted (with network performance first, network resiliency second, and price third). The Uniendo a Puerto Rico Fund was created in response to hurricanes and to remedy the vulnerabilities of Puerto Rico’s existing telecommunications infrastructure to such storms. To this end, the logical priority in using the fund should be on establishing absolutely high quality and state of the art new networks for Puerto Rico that will avoid, as much as possible, the widespread outages caused by such storms and, in turn, the need for future special assistance funds like the Uniendo a Puerto Rico Fund. Yes, the efficient use of funds and similar universal service considerations of course should still

## PUBLIC REDACTED VERSION

be important, and WorldNet appreciates the FCC's obligation to be careful stewards of these funds. But, on balance, primary consideration in this proceeding should be on establishing networks that offer quality and dependable services and can best weather future storms (especially to critical locations, like hospitals, first responders, and basic service providers), not on lowest cost service proposals or the simple capacity to reach every conceivable location in Puerto Rico. For example, WorldNet applauds the Commission's stated goal to see deployment of cutting edge technology such as 5G. WorldNet is interested and actively exploring 5G deployment. However, if the most highly weighted goal is the cheapest option, rather than the best, this could impede the ability to deploy such alternatives. Old, antiquated, and limited technology and installation is, as a rule the least expensive, but they will be among the most vulnerable to the next storm. And, while these facilities may meet the limited quality tests proposed here, in adverse weather or otherwise, they may often fail to consistently provide basic services. For instance, some wireless technology provides acceptable latency, but fails to provide voice with dependable, quality uptime sufficient to conduct business. An alternative, ubiquitous network that is only marginally usable and is destroyed in the next storm will fail to meet the intentions of these funds. Targeted, high quality facilities and services, will do Puerto Rico much more good than ubiquitous offerings of less than the best quality.

WorldNet also respectfully submits that the Commission should expand the network performance criteria that the Commission proposed in the Draft Order, or in the alternative, add an additional complimentary criterion. In short, quality of service to customers and SLAs should be expressly evaluated and given specific weight in the scoring. The Draft Order currently proposes to consider only network speed, latency, and usage allowance. Consistent with WorldNet's previous comments in this proceeding about building more competitive considerations into the funding process, WorldNet respectfully submits that the network performance criteria established by the Commission should also leave room for other performance considerations, like historical voice interruptions, history of outages, other industry standard SLAs, timing commitments for service installations, service repairs, and other traditional service provisioning and quality considerations. SLAs mean more than speed of deployment; rather, they also mean dependability and predictability and reliability of deployment, the service itself, and repair in a way that allows customers dependent upon telecom services to conduct their lives and run their businesses or personal lives with certainty and safety. This is a chance for the Commission to put a stake in the ground and insist that decades of poor service must come to an end, at the very least where public funds are used. WorldNet has competed for years by offering customer tailored, high quality, responsibly and fairly priced services. The market has shown an appreciation for this approach, even if not the cheapest. The funding process should not be one that undercuts this approach. This is especially true in Puerto Rico, where customer service and service performance and quality have historically lagged far behind that of mainland jurisdictions and has been one of the key tools available to competitors to compete and improve telecommunications service within Puerto Rico. This approach as well helps achieve the Commission goals of spurring a competitive bidding process by encouraging smaller providers to compete on long term quality as a key goal. It would not be the only goal, and price and other factors still matter. But expressly weighting quality and resiliency would send the correct message to an island plagued by historical service problems. It further reflects good policy for the Commission to value, if not insist upon, quality customer service for networks funded by Federal funding.

## **PUBLIC REDACTED VERSION**

Finally, in its past submissions in this docket, WorldNet urged the Commission to adopt a process for second stage funding that enables competitive providers, like WorldNet, to have an easier path toward a real and material role in the rebuilding process for Puerto Rico. In the Draft Order, the Commission has proposed to adopt a procedure, based in large part on considerations of efficiency and administrative convenience (e.g., funding only for build-outs to extensive geographic areas and primarily based on lowest-price build-outs), that, in WorldNet's view, unduly stacks the deck in favor of the large-scale service providers in Puerto Rico (i.e., PRTC and Liberty). FCC policy goals can be further advanced if this approach is reconsidered. It is counterproductive, in WorldNet's view, to depend as a practical matter upon two providers. For example, two years after the hurricane, PRTC still has not repaired major sections of its network. In WorldNet's view, there is a place for considerations like efficiency and administrative convenience in making Uniendo funding decisions. But, the countervailing consideration is to sharply constrain the ability of competitors to bid. In balancing these two factors, WorldNet respectfully submits that the Commission went too far on the side of administrative convenience. WorldNet sincerely believes that the Commission's goals for Uniendo can still be met, and met in a better way, even if geographic areas smaller than municipios are considered. WorldNet would respectfully ask that the Commission consider an alternative service geography path that does not rule out allowing funding bids for smaller, more targeted geographic areas, like census blocks, counties, or subbarrios. The Commission in this regard could accept such applications, accompanied by reasons in support thereof, but expressly give greater weight to applications serving larger areas. Or, alternatively, the Commission should establish a pathway for competitive providers, like WorldNet, to utilize Uniendo-funded network facilities so that the effect of the Uniendo process is not just to subsidize a historical monopoly that, in the past, has left Puerto Rico far behind virtually every other United States jurisdiction in telecommunications service quality. Smaller providers like WorldNet showed their value following Hurricane Maria by, for example, creatively offering solar panels to customers to help them function without electricity from the grid. Companies like WorldNet that interconnect and work with multiple providers have the ability to connect customers using the networks of whichever survived the best in the different areas.

### **2. Order on Reconsideration**

WorldNet also respectfully urges the Commission to reverse its proposed decision in the Draft Order denying WorldNet's Petition for Clarification or, in the Alternative, Reconsideration. In short, the Draft Order determines that, after the passage of two years, any unfairness in denying WorldNet emergency funding granted to other providers in the months following the 2017 hurricanes is now outweighed by a Commission responsibility to be efficient with the Uniendo a Puerto Rico Fund. WorldNet respectfully submits that the Commission's portrayal of the circumstances at issue and the Commission's ultimate resolution are not well founded.

To begin with, WorldNet did not wait two (2) years to petition the Commission for the funding at issue, as portrayed in the Draft Order. WorldNet petitioned the Commission for the funding on June 28, 2018, just thirty (30) days after the Commission issued its order establishing

## PUBLIC REDACTED VERSION

the grant of the subject funding to everyone else. It is the Commission, not WorldNet, that determined to wait over fifteen (15) months to address WorldNet's petition, despite urgent and repeated WorldNet efforts to obtain more timely relief. It was within the Commission's discretion to respond to WorldNet's petition as and when it deemed appropriate. However, it seems undue and inappropriate that the Commission can cite the passage of two (2) years as the basis to fault or deny WorldNet's petition, when the Commission itself was responsible for the vast majority of that delay.

Moreover, it would be equally undue and inappropriate to determine that, even without considering the time that WorldNet's petition was pending with the Commission, WorldNet's petition was somehow untimely or unsupported. Yes, the Commission's original order giving providers the option to receive an advance of universal service funds was issued in October 2017, about nine (9) months before WorldNet filed its petition. But, as noted above, the Commission issued its order first converting that advance into a grant just one (1) month before WorldNet filed its petition. And, the Commission issued that second order based on the finding that, at that time, emergency circumstances still existed for all providers in Puerto Rico, as reflected in the following:

Although we had previously anticipated offsetting the advance payments against future support, we no longer believe that to be a prudent course. The continuing difficulties in bringing service and power back to Puerto Rico and the U.S. Virgin Islands have impeded and delayed restoration efforts so that conditions on the islands have not improved sufficiently to justify reducing future support payments. Restoration efforts are still ongoing rather than largely complete and persistent power outages and other logistical challenges have made the continued operation of restored networks more expensive than some expected. As such, requiring the offset of advance payments would substantially delay, if not prevent, further restoration efforts—and we find that the public interest is best served by allowing carriers to continue their critical work to restore their communications networks.<sup>6</sup>

WorldNet filed its petition on the heels of these findings, and most definitely shared these challenges. Yet, the Draft Order unfairly purports to fault WorldNet for not supporting in its petition that it was “still in the process of restoring its network”<sup>7</sup> – a proposition that, just thirty (30) days earlier was plainly evident to the Commission for all Puerto Rico providers and that the Commission required no other provider to further document, prove, or support in order to obtain the benefit of its order.

Indeed, even if it were somehow fair to expect WorldNet (unlike any other Puerto Rico provider) to document its continued, emergent need for funding at that time, or any other time in light of the Commission's express recognition of Puerto Rico's continuing plight, the Draft Order would still be misleading in representing that WorldNet gave the Commission no record

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<sup>6</sup> 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, FCC 18-57 at para. 10 (rel. May 29, 2018) (“Puerto Rico Funding Order”) (emphasis added).

<sup>7</sup> See Draft Order at para. 151.

**PUBLIC REDACTED VERSION**

basis to conclude that its recovery efforts were not still ongoing while its petition was pending with the Commission. For example, in a December 2018 request to the Commission for urgent action on its petition, WorldNet expressly noted that “[e]very day that passes without the relief requested in WorldNet’s petition unduly and unnecessarily prejudices WorldNet and its Puerto Rico customers in their continuing hurricane relief efforts.”<sup>8</sup>

In this and other proceedings, including in multiple filings and meetings in connection with the forbearance issues, WorldNet has documented for the Commission the extensive network damage that occurred during the 2017 hurricanes, including the flooding and need to relocate its entire main network switch and operations center (a process that, even now, two years after the hurricane, is still ongoing and not yet complete). Despite receiving Stage 1 funding from the Commission, WorldNet is still nowhere close to recouping the cost of those damages. Indeed, WorldNet has been forced to rebuild with the additional challenge of the material default and effective bankruptcy of its insurer. These and other continuing WorldNet challenges are documented in more detail in the attached Declaration of WorldNet’s President, Ms. Maria Virella.

WorldNet requested no special treatment in its petition. It asked for the same funding extended to every other qualifying provider in Puerto Rico under the same circumstances and at the same effective time that the Commission unequivocally determined that the universal grant of such funding was urgently needed and due. WorldNet timely asked the Commission to quickly remedy an obvious oversight resulting from a Commission change in course in its hurricane response. To grant WorldNet’s petition now would not undercut any Commission responsibility to administer the Uniendo Fund efficiently. It would remedy a wrong. It would still help WorldNet to recover from the 2017 hurricanes. And, it would indubitably help Puerto Rico recover and prepare for the hurricanes to come. For all of these reasons, WorldNet respectfully urges the Commission to reverse its denial of WorldNet’s petition in the Draft Order.

Respectfully submitted,

/s/ Richard Davis

Richard Davis

Outside Counsel

WorldNet Telecommunications, Inc.

cc: Arielle Roth  
Michael Carowitz  
Preston Wise  
Daniel Kahn  
Ryan Palmer  
Jesse Jachman  
Alexander Minard

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<sup>8</sup> 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, Request for Action on Petition for Clarification or, in the Alternative, Reconsideration at 1 (filed December 17, 2018) (emphasis added).

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Dangkhoa Nguyen  
Travis Litman  
Randy Clarke

**PUBLIC REDACTED VERSION**

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

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

**DECLARATION OF MARIA VIRELLA**

1. My name is Maria Virella. I am the President of WorldNet Telecommunications, Inc. (“WorldNet”).

2. I am providing this declaration in support of WorldNet’s Petition for Clarification or, in the Alternative, Reconsideration currently pending in this proceeding.

3. WorldNet (and its network) suffered substantial damage and expense as a result of Hurricane Maria (“Hurricane Maria Damages”). The costs to repair and restore these damages included both initial obligations for network restoration at the time of the hurricane, as well as, ongoing and continuing damages and expenses for network restoration (such as central office relocation, described further below) including those which continue to this day. Furthermore, WorldNet was, and continues to be, in the process of reinforcing its network.

4. WorldNet has not been fully compensated by any outside source for the Hurricane Maria Damages—not even close. Among other things, WorldNet’s property damage and business interruption insurance carrier paid only a small fraction on WorldNet’s claim before recently entering into the equivalent of a bankruptcy proceeding. The initial round of FCC monies received further did not come close to fully reimbursing our expenses and damages. The issues with our insurance carrier had exponential effects, since we delayed for some time restoration work waiting for payments that never came. We cannot delay this work any longer.

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5. Among the biggest damages and expenses were [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

6. In addition, we have deemed it necessary and prudent to [REDACTED]

[REDACTED]

[REDACTED]

7. Further, we have incurred substantial additional expense to install our own wireless and substitute lines for circuits leased from PRTC which, some two years later, are still left unrepaired by PRTC.

8. These illustrative examples do not begin to tell the whole story of the initial and ongoing damage and expense caused by Hurricane Maria. We've encountered, and continue to encounter, myriad hurricane-caused expenses and disruptions. Companies as large as PRTC are still claiming, two years later, the 2017 hurricanes as an excuse for performance delays. As a much smaller company, without the same access to parent company support or capital markets like PRTC, the impact on us is simply that much greater.

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9. In short, there should be no doubt that WorldNet was, and is, in the process of restoring its network from the devastation of Hurricane Maria, and that consequently every penny of support from the FCC and elsewhere is urgently needed to support this task.

/s/ Maria Virella

Maria Virella

September 16, 2019