

PO BOX 26304
CHRISTIANSTED, VI 00824
340-719-2943



September 18, 2019

Via ECFS

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

Re: ***The Uniendo a Puerto Rico Fund and the Connect USVI Fund, et al.
WC Docket Nos. 18-143, 10-90 and 14-58***

Dear Ms. Dortch:

Broadband VI, LLC (“BBVI”) appreciates the Commission’s circulation of a Report and Order and Report on Reconsideration (“*Draft PR-USVI Report and Order*”) in the above-referenced proceeding,¹ and looks forward to the Commission’s adoption of the order at its upcoming open meeting. BBVI commends the Commission and its staff for developing a comparative application process and regulatory framework that appropriately balances the Commission’s objectives of price per-location, network performance, and network resilience and redundancy.

In recent ex parte letters, Virgin Islands Telephone Corp. dba Viya and its affiliated companies in the U.S. Virgin Islands (“Viya”) present a long list of suggested changes to the *Draft PR-USVI Report and Order* that, would, if implemented at this late stage, fundamentally alter the regulatory regime the Commission has carefully crafted based on a full and complete record.² Four of Viya’s 11th hour recommendations are discussed below.

First, Viya asks the Commission to allocate subdivide its network resiliency points into two categories it calls Central Network miles and Peripheral Connections.³ It contends that

¹ *The Uniendo a Puerto Rico Fund and the Connect USVI Fund*, Report and Order and Order on Reconsideration, WC Docket No. 18-143, FCC-CIR1909-01 (“*Draft PR-USVI Fund Report and Order*”).

² Letter from L. Charles Keller, Counsel to Viya, to Marlene H. Dortch, FCC Secretary, WC Docket No. 18-143 (filed Sept. 9, 2019) (“Viya September 9 Letter”); Letter from L. Charles Keller, Counsel to Viya, to Marlene H. Dortch, FCC Secretary, WC Docket No. 18-143 (filed Sept. 16, 2019); Letter from Geraldine Pitt, Viya CEO, to Marlene H. Dortch, FCC Secretary, WC Docket No. 18-143 (filed Sept. 17, 2019) (“Viya September 17 Letter”).

³ See Viya September 17 Letter at 2-4.

“Peripheral Connections are substantially overweighted relative to their actual role in securing network resiliency or accomplishing path diversity. . . . By weighting all network miles the same, the Draft Order’s resiliency scoring system incentivizes applicants to submit proposals to improve resiliency and path diversity wherever it is least expensive to do so.”⁴ This presupposes that the Commission’s reviewers will not be able to make determinations about network resiliency as a whole. Further, introducing this concept at this late date does not afford the public with adequate notice and an opportunity to provide comment.

Second, Viya asks the Commission to change its criteria for resiliency and redundancy.⁵ Among other things, Viya attempts to distinguish between “high-wind-rated composite” and “standard poles” for aerial fiber.⁶ It also introduces the idea of “lightweight fiber on storm-resistant poles” to suggest that the Commission should perhaps distinguish between fiber of certain weights.⁷ Until this late date, Viya has presented no evidence to suggest that certain poles are necessarily more resilient than other poles, or how much more resilient they may be, or why certain kinds of fiber may be better than others. Moreover, the materials used to make poles are just one part of the equation – how deep the poles are placed in the ground, soil composition and loading on the poles are other important elements. In fact, there are many examples of cases where composite poles did not withstand hurricane-strength winds. In sum, the Commission has no record on which to determine the validity of Viya’s claims and cannot, at this late stage, adopt Viya’s proposal without seeking further comment.

Third, Viya asks the Commission to apply a point reduction for backup power at customer premises.⁸ BBVI agrees that “[b]ackup power is very important in both USVI and Puerto Rico,”⁹ but disagrees that providing backup power at customer premises is an appropriate criterion for *network* resilience and redundancy that should be factored into a comparative review of competing applications. BBVI also notes that backup power is a requirement for all providers of facilities-based fixed voice services and there thus is no reason to impose a separate requirement on Connect USVI Fund recipients.¹⁰

Fourth, Viya seeks to expose competing applications to a brief public comment period.¹¹ But there is no indication in the record that the Commission’s proposed internal review and scoring method will be inadequate to assess the relative benefits of applications and render scores that represent those comparative benefits. Further, as the incumbent that continues to receive high-cost subsidies, Viya would benefit from the delay arising not just from the comment cycle but from Commission staff review of the comments. Viya also fails to explain why the

⁴ *Id.* at 3.

⁵ See Viya September 17 Letter at 2-6.

⁶ Viya September 9 Letter at Attachment; see also Viya September 17 Letter at 5-6.

⁷ Viya September 9 Letter at Attachment.

⁸ *Id.*; Viya September 17 Letter at 6.

⁹ Viya September 9 Letter at Attachment.

¹⁰ 47 C.F.R. § 12.5(b).

¹¹ See Viya September 9 Letter at Attachment; Viya September 17 Letter at 7-8.

opportunity to seek reconsideration of the Commission's decision would be an inadequate remedy.

BBVI commends the Commission's hard work in fashioning a well-reasoned order and its commitment to ensuring that consumers in Puerto Rico and the USVI will reap the benefits of the support the Commission will award. BBVI looks forward to further participating in the process.

This letter is being filed electronically in the above-referenced docket.

Respectfully submitted,

/s/ Michael Meluskey

Michael Meluskey
CTO and Founder
Broadband VI, LLC

cc: Hon. Ajit Pai
Hon. Michael O'Rielly
Hon. Brendan Carr
Hon. Jessica Rosenworcel
Hon. Geoffrey Starks
Nicholas Degani
Preston Wise
Arielle Roth
Joseph Calascione
Travis Litman
Randy Clarke
Kris Monteith
Alexander Minard
Ryan Palmer
Daniel Kahn
Jesse Jachman