



November 20, 2018

BY ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
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”) responds to the November 9, 2018 ex parte of Broadband VI LLC (“Broadband VI”) concerning the framework for selecting recipients for Stage 2 support from the Connect USVI Fund.¹ As discussed below, Broadband VI’s proposals should largely be rejected for ignoring price, failing to be technology neutral, and failing to encourage the speedy deployment of reliable, resilient, advanced broadband services on an efficient and cost-effective basis.

First, Broadband VI would limit eligibility for Stage 2 to providers that were serving customers in the U.S. Virgin Islands as of June 2017.² As Hughes has explained, limiting participation to providers who reported service to the U.S. Virgin Islands in the June 2017 Form 477 filing would arbitrarily lock out providers with a proven track record for quick deployment of robust and resilient service in storm-prone areas, including the U.S. Virgin Islands.³ Hughes offered service in Puerto Rico *before* Hurricanes Irma and Maria struck in 2017 and launched Gen5 in the U.S. Virgin Islands in November 2017 after receiving a request from FEMA to assist with hurricane relief which continues today.⁴ Today, Hughes has service available and is providing service to residential consumers throughout the Virgin Islands as well as to FEMA and other customers. Hughes is hardly a “start-up” that lacks “experience and understanding of how to build and operate a successful network in the Virgin Islands.”⁵ To the contrary, Hughes was the provider to which government and other critical customers turned when they needed service the most. Broadband VI offers no new argument that supports an arbitrary cut-off date a few months before Hughes began offering service in the U.S. Virgin Islands.

¹ See Letter from Michael Meluskey, Broadband VI, LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 18-143, 10-90 & 14-58, at 1, 3 (filed Nov. 9, 2018) (“Broadband VI Ex Parte”).

² *Ibid.*

³ See Comments of Hughes Network Systems LLC, WC Docket Nos. 18-143, 10-90 & 14-58, at 8-10 (filed July 26, 2018) (“Hughes Comments”).

⁴ *Ibid.*, at 8-9.

⁵ Broadband VI Ex Parte at 1.



Separately, Broadband VI opposes the Commission's proposal to "select winning proposals based primarily on price per-location served."⁶ Broadband VI cites the challenges in tabulating locations, given post-hurricane destruction of some homes and businesses, migration, and non-standard addressing. Broadband VI suggests that the Commission "first" evaluate other criteria, but then never addresses how the Commission would "later" evaluate price per location. This omission would create a serious gap in the Connect USVI program. First, as the steward of the universal service fund, it is the Commission's responsibility to ensure that it awards support in an "efficient and effective" way.⁷ Yet Broadband VI's proposal would consider two proposals to deploy service to be equal if they propose the same network resiliency, timing, and performance, even if one proposal would cost the Connect USVI Fund twice as much as the other. This is neither an efficient nor effective use of ratepayer contributions to the universal service fund. Relatedly, it is not clear whether Broadband VI would require a provider to disclose as part of its application how many locations the provider proposes to serve (or would be required to serve). As the point of the program is to ensure universal service, providers must identify measurable build-out commitments as part of their applications. (Broadband VI's support for the Commission's suggestion to review obligations at year 5 would seem to add even more flexibility and opportunities for gaming without specific initial obligations.)

Broadband VI's proposal no doubt reflects its assumption that satellite technologies will not be eligible to participate in Stage 2, which as Hughes has already explained, would be contrary to the public interest.⁸ Hughes agrees that satellite would be an excellent source of network redundancy for any Stage 2 participant, but satellite providers should also be awarded points for proposing to provide service with network or path redundancy. Indeed, in terms of resiliency, restoration time, and ubiquitous availability pre- and post-disaster, satellite service would likely outperform any terrestrial technology because its core network would be unaffected by weather or other events on the ground.

In addition, Broadband VI incorrectly weights network resiliency and restoration as two-and-a-half times more valuable than network deployment timing.⁹ Hughes agrees that network resiliency and restoration are critical in disaster-prone areas. However, time to initial deployment is equally critical in the U.S. Virgin Islands, where the Digital Divide has been particularly stubborn. Residents, businesses, and community anchor institutions need broadband services as soon as possible. Getting service to as many as possible, as quickly as possible is as important as ensuring that the service that they do receive is capable of withstanding the harsh weather events that frequently occur. To this end, Hughes has

⁶ *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 & 14-58, ¶ 55 (rel. May 29, 2018) ("PR/USVI Notice"); Broadband VI Ex Parte at 3-4.

⁷ PR/USVI Notice ¶ 64 n.85.

⁸ See Hughes Comments at 14-18; Reply Comments of Hughes Network Systems, LLC, WC Docket Nos. 18-143, 10-90 & 14-58, at 2 (filed Aug. 8, 2018).

⁹ Broadband VI Ex Parte at 4.

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proposed that applicants should be required at a minimum to deploy to all committed locations by year 6—not awarded extra points for building out by year 6.¹⁰

Broadband VI may also be suggesting that an entity must be designated as an Eligible Telecommunications Carrier *before* it can apply to participate in Stage 2.¹¹ This would seem to serve the purpose of excluding any providers that have not previously received universal service support in the U.S. Virgin Islands. The Commission should use the same procedure it has used in other competitive processes—allowing providers to acknowledge that they must be an Eligible Telecommunications Carrier or become one within a reasonable timeframe after being selected for support.¹²

Finally, Broadband VI suggests that there is no need for a neutral third party arbiter to evaluate applications for Stage 2 funding.¹³ Absent an auction, the use of a neutral third party to evaluate applications will add trust and credibility to the process of awarding funding, avoiding problems inherent in any type of subjective “beauty contest” approach.

Hughes urges the Commission to adopt the points proposal that Hughes offered on the record, which carefully balances the key factors that the Commission identified as important for ensuring robust service to Puerto Rico and the U.S. Virgin Islands while adhering to technological neutrality: 40 points for price-per-location, and 20 points each for network resiliency, deployment timing, and performance.¹⁴ Hughes also encourages the Commission to move expeditiously so that the citizens of Puerto Rico and the U.S. Virgin Islands can have the benefits of broadband as they work to rebuild their communities and economies and prepare for the storms yet to come.

Respectfully submitted,

/s/ Jennifer A. Manner

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¹⁰ See Letter from Jennifer A. Manner and Jodi Goldberg, Hughes Network Systems, LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 18-143, 10-90 & 14-58, at 4 (filed Oct. 23, 2018) (“Hughes Points Ex Parte”) (proposing that applications receive no points for building out to 100% of locations by year 6, 10 points for building out by year 4, and 20 points for building out by year 2).

¹¹ Broadband VI Ex Parte at 3.

¹² See, e.g., *Connect America Fund Phase II Auction Scheduled for July 24, 2018 Notice and Filing Requirements and Other Procedures for Auction 903*, Public Notice, 33 FCC Rcd. 1428, 1472-73 ¶ 120 (2018) (requiring an applicant to acknowledge in its short form that it must be designated as an ETC for the relevant areas in order to receive support).

¹³ Broadband VI Ex Parte at 2.

¹⁴ See *generally* Hughes Points Ex Parte.

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