

December 14, 2015

Thomas J. Navin
202.719.7487
TNavin@wileyrein.com

VIA ELECTRONIC DELIVERY

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

Re: Connect America Fund Phase II Support
WC Docket No. 10-90

Dear Ms. Dortch:

Puerto Rico Telephone Company, Inc. (“PRT”) hereby responds to an ex parte presentation submitted by the Telecommunications Regulatory Board of Puerto Rico (the “Board”) on December 3, 2015 regarding PRT’s use of Connect America Fund (“CAF”) Phase II funding in Puerto Rico.¹ PRT appreciates the Board’s input to the extent it advocates for more USF monies for Puerto Rico and looks forward to working with the Board to promote the widespread deployment of high-speed broadband in Puerto Rico. However, the Board proposes several conditions be tied to PRT’s receipt of CAF Phase II funding that are inconsistent with PRT’s Phase II deployment plan and the Commission’s stated goal to “ensur[e] universal availability” of broadband in Puerto Rico.²

As indicated in earlier filings,³ PRT has developed a CAF Phase II deployment plan that will bring broadband meeting the Commission’s 10/1 Mbps speed requirement to 60,626 new locations that are not currently served by PRT or a competitor at even 3/1 Mbps speed. That is over *three times* more locations than those shown as “funded” by the Connect America Model (“CAM”).⁴ In addition, PRT has agreed

¹ Notice of Ex Parte of Thomas M. Koutsky, Chief Policy Counsel, Connected Nation, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90 (filed Dec. 3, 2015) (“TRB Ex Parte”).

² *Connect America Fund*, Report and Order, 29 FCC Rcd 15644, ¶ 48 (2014) (“December 2014 CAF Order”).

³ See, e.g., Letter from Thomas J. Navin, Counsel, PRT, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90, at 2 (filed Oct. 26, 2015) (“PRT CAF II Letter”).

⁴ See Comments of Puerto Rico Telephone Company, Inc., WC Docket Nos. 10-90, 14-58, & 07-135, WT Docket No. 10-208, CC Docket No. 01-92, at 5 (filed Aug. 8, 2014) (explaining that there are 17,346 locations in PRT’s service area that are unserved and “funded” by the CAM).

December 14, 2015

Page 2

to be bound by the same service obligations and adhere to the same deployment timeline as model-funded carriers.⁵ To accommodate this expanded deployment plan, PRT has asked for flexibility to substitute locations throughout its support term on an as-needed basis, on the condition that PRT meets its deployment milestones and deploys only to locations that are not currently served by PRT or a competitor at 3/1 Mbps speed or greater.⁶ PRT believes that this plan best serves the Commission's goal to "ensur[e] universal availability" of broadband by maximizing the number of locations in Puerto Rico to which PRT can deploy 10/1 Mbps broadband over the duration of CAF Phase II.⁷

In its presentation, the Board proposes several conditions be tied to PRT's funding that PRT believes are inconsistent with its deployment plan and the Commission's goal of ensuring universal broadband availability. First, the Board appears to suggest that PRT deploy broadband with 1 Gbps download speed to 50% of locations in its service territory by 2018 and 70% of locations in its service territory by 2020.⁸ Even if such deployment were practicable, focusing on 1 Gbps broadband would severely cut the number of locations that PRT can serve with its funding. As the Board has recognized, no state has more Americans who lack access to 3 Mbps/768 kbps speed broadband than Puerto Rico.⁹ Consistent with the Commission's Order, the focus of CAF Phase II is to reduce this availability gap at 10/1 Mbps speed, and PRT's current deployment plan uses CAF Phase II funding to do exactly that.

Second, the Board suggests that PRT commit to offering broadband at rates, terms, and conditions consistent with the FCC's E-rate rules.¹⁰ Aside from the fact that the E-rate rules do not apply to the CAF program, this would be an unnecessary requirement because PRT has already committed to provide broadband at a rate consistent with the Commission's CAF Phase II requirement for model-based

⁵ See PRT CAF II Letter at 2-3; 47 C.F.R. §§ 54.309(a), 54.310(c).

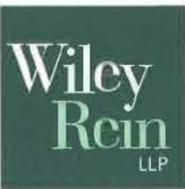
⁶ See *id.* at 3.

⁷ December 2014 CAF Order ¶ 48.

⁸ See TRB Ex Parte at 13.

⁹ See Letter from Javier Rua Jovet, Chairman, Telecommunications Regulatory Board of Puerto Rico, to the FCC Commissioners, WC Docket No. 10-90 (filed June 19, 2015) (citing *2015 Broadband Progress Report*, GN 14-126, 30 FCC Rcd. 1375, Appendix G (2015)).

¹⁰ See TRB Ex Parte at 13.



1776 K STREET NW
WASHINGTON, DC 20006
PHONE 202.719.7000
FAX 202.719.7049

7925 JONES BRANCH DRIVE
McLEAN, VA 22102
PHONE 703.905.2800
FAX 703.905.2820

www.wileyrein.com

December 14, 2015
Page 3

carriers, which is a rate that is at or below the applicable benchmark to be announced annually by the Bureau, or no more than the non-promotional price for a comparable fixed wireline service in urban areas in Puerto Rico.¹¹ Adherence to the Commission's requirement for model-based carriers will ensure that PRT uses its funding to provide affordable broadband.

Finally, the Board suggests that it and the Commission should jointly identify the locations to which PRT will deploy using its CAF Phase II funding.¹² But as the Commission has recognized, the unique circumstances in Puerto Rico necessitate that PRT has flexibility in its deployment obligations.¹³ If PRT is required to deploy only to locations that are preapproved by the Board and Commission, it will be unable to maximize deployment by serving the most cost-effective locations using location substitution on an as-needed basis. Moreover, such a requirement is unnecessary because PRT's plan will be transparent to all interested parties. PRT already has publicly identified the census blocks to which it plans to deploy,¹⁴ and the Commission's CAF reporting requirements will ensure that the Board and other interested parties are apprised of PRT's progress throughout the support term.

Please contact me should you have any questions about this filing.

Very truly yours,

/s/ Thomas J. Navin
Thomas J. Navin

*Counsel for Puerto Rico Telephone
Company, Inc.*

cc: Carol Matthey
Ryan Palmer
Alex Minard
Rebekah Douglas

¹¹ See 47 C.F.R. § 54.309(a).

¹² See TRB Ex Parte at 13.

¹³ December 2014 CAF Order ¶ 46.

¹⁴ See PRT CAF II Letter at 4-91.