WC 10-52

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January 26, 2010

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VIA HAND DELIVERY

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

Re: *Petition of Puerto Rico Telephone Company, Inc. and Puerto Rico Telephone Larga Distancia, Inc. For Waiver of Section 64.1903 of the Commission's Rules*

Dear Ms. Dortch:

Please find enclosed for filing an original and four copies of the Petition of Puerto Rico Telephone Company, Inc. and Puerto Rico Telephone Larga Distancia, Inc. for Waiver of Section 64.1903 of the Commission's Rules and the supporting declaration of Adail Ortiz Santiago. Please contact the undersigned with any questions regarding this Petition.

Sincerely yours,

Bennett L. Ross

cc: Sharon Gillett
Donald Stockdale
Jennifer Prime
William Dever
Ann Stevens
Ian Dillner
William A. Kehoe III

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Petition of Puerto Rico Telephone Company, Inc. and Puerto Rico Telephone Larga Distancia, Inc. For Waiver of Section 64.1903 of the Commission's Rules	)	WC Docket No. 10-____
	)	

FILED/ACCEPTED

JAN 26 2010

Federal Communications Commission
Office of the Secretary

PETITION FOR WAIVER OF SECTION 64.1903 OF THE COMMISSION'S RULES

I. INTRODUCTION AND SUMMARY

Puerto Rico Telephone Company, Inc. ("PRT") and its affiliate, Puerto Rico Telephone Larga Distancia, Inc. ("PRTLD") (collectively "Petitioners"), respectfully petition the Commission for a waiver of the structural separation requirements in section 64.1903 of the Commission's rules, 47 C.F.R. § 64.1903. A waiver is appropriate because these structural separation requirements are not necessary to protect competition, and Petitioners' continued compliance with these requirements is not in the public interest. Both PRT and PRTLD face extensive competition in the telecommunications market in Puerto Rico, and requiring that PRT provide facilities-based, in-region, interstate, interexchange and international telecommunications services only through a separate affiliate impose unnecessary costs and create significant inefficiencies that hamper Petitioners' ability to compete.[1]

[1] Although Petitioners request a waiver of the separate affiliate requirements in section 64.1903, PRT and PRTLD are not seeking a waiver of 47 C.F.R. § 63.10(c). The Commission has classified PRTLD as a dominant U.S.-international carrier on the U.S.-Mexico, U.S.-Brazil, U.S.-Guatemala, U.S.-Nicaragua, U.S.-El Salvador, and U.S.-Dominican Republic routes. *Verizon Communications, Inc. (Transferor) and América Móvil, S.A. de C.V. (Transferee), Application for Authority to Transfer Control of Telecomunicaciones de Puerto Rico, Inc. (TELPRI)*, Memorandum Opinion and Order and Declaratory Ruling, 22 FCC Rcd 6195, ¶ 45

Furthermore, the unique geographic and demographic conditions on Puerto Rico only exacerbate the costs and inefficiencies attributable to the structural separation requirements. PRT and PRTLD face higher costs than carriers on the mainland due to the insular nature of Puerto Rico, and it has fewer (and an increasingly declining base of) customers over which to recover these costs due to a disproportionately high cost of living, lower consumer incomes, and higher unemployment as compared to the mainland. The unnecessary costs and significant inefficiencies borne by PRT and PRTLD as a result of the structural separation requirements only compound these challenges.

In today's market – where the distinction between local and long distance services has long since been blurred, and customers are increasingly substituting wireless for wireline service – the Commission's structural separation requirements no longer make sense. As a result, strict compliance with such requirements would be inconsistent with the public interest, and the Commission should grant Petitioners' request for a waiver of section 64.1903.

II. GOOD CAUSE EXISTS FOR THE COMMISSION TO WAIVE SECTION 64.1903 OF ITS RULES.

Generally, the Commission may waive its rules for good cause shown.[2] The Commission may exercise its discretion to waive a rule when the particular facts make strict compliance inconsistent with the public interest.[3] In addition, the Commission may take into

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(2007). As a result, on each of these routes, PRTLD is obligated to comply with section 63.10(c), and nothing in this Petition is intended to affect that obligation.

[2] 47 C.F.R. § 1.3.

[3] The Commission has considerable discretion as to whether to waive its rules. *See Office of Communication of United Church of Christ v. FCC*, 911 F.2d 803, 812 (D.C. Cir. 1990) (upholding the Commission's grant of a waiver "[g]iven the deference due the agency in matters of this sort"); *City of Angels Broadcasting, Inc. v. FCC*, 745 F.2d 656, 663 (D.C. Cir. 1984) (noting that the scope of review of a waiver determination by the Commission "is narrow and constrained"). As the D.C. Circuit has observed, the Commission's waiver determinations are entitled to heightened deference because "the agency's discretion to proceed in difficult areas through general rules is intimately linked to the existence of a safety-value procedure for

account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.[4] In short, a waiver is justified when special circumstances warrant a deviation from general rules and such deviation will serve the public interest.[5]

Such special circumstances plainly exist here. Under the current regulatory regime, PRT – as an independent incumbent local exchange carrier ("LEC") – must comply with the Commission's structural separation requirements. 47 C.F.R. § 64.1903. These requirements mandate that, when providing in-region, interstate, interexchange and international telecommunications services other than through resale, PRT must do so only through its separate affiliate, PRTLD. As a section 64.1903 separate affiliate, PRTLD must: (1) maintain books of account separate from those PRT maintains; (2) purchase services from the PRT pursuant to the PRT's tariffs or generally available contract rates; and (3) not jointly own transmission or switching facilities with PRT.[6]

Section 64.1903's structural separation requirements impose substantial costs on PRT and create inefficiencies that prevent PRT from realizing economies of scope and scale that its competitors may realize. For example, the joint ownership requirement in 47 C.F.R. § 64.1903(a)(2) frustrates Petitioners' efforts to "deploy[] the latest, most innovative technology or

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consideration of an application for exemption based on special circumstances." *AT&T Wireless Services, Inc. v. AT&T*, 270 F.3d 959, 965 (D.C. Cir. 2001) (internal quotation marks omitted).

[4] *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

[5] *Northeast Cellular*, 897 F.2d at 1166; *see also Allband Communications Cooperative, Petition for Waiver of Sections 69.2(hh) and 69.601 of the Commission's Rules*, WC Docket No. 05-174, *Order*, 2005 FCC LEXIS 4527 (Aug. 11, 2005).

[6] *See* 47 C.F.R. § 64.1903; *see also Regulatory Treatment of LEC Provision of Interexchange Services Originating in the LEC's Local Exchange Area and Policy and Rules Concerning the Interstate, Interexchange Marketplace,* CC Docket Nos. 96-149, 96-61, Second Report and Order in CC Docket No. 96-149 and Third Report and Order in CC Docket No. 96-61, 12 FCC Rcd 15756, ¶ 7 (1997) (*"LEC Interexchange Services Order"), recon. denied,* Second Order on Reconsideration and Memorandum Opinion and Order, 14 FCC Rcd 10771 (1999) ("*Second Reconsideration Order*").

cause delays in bring services relying on that technology to the market" by preventing their joint ownership of soft switches or other innovative switching equipment that could be used to provide both local and long distance services.[7] At the same time, this requirement requires Petitioners to incur unnecessary costs by forcing PRTLD to operate switching equipment that it otherwise has no business reason to maintain. If PRT and PRTLD were permitted to jointly own switching facilities, Petitioners estimate that they would realize a one-time benefit of approximately $2.5 million and annual savings in excess of $250,000 (which consist primarily of operating expenses, insurance, and property taxes that would no longer be incurred).[8]

As a result of the FCC's separate affiliate requirements, PRT and PRTLD also must prepare separate financial statements and file separate tax returns and related filings, which results in additional cost. Petitioners estimate that the annual savings from the elimination of these separate filings – including separate Volume of Business Declarations (of which approximately 78 are filed annually) and separate Sales and Use Tax Returns (of which approximately 78 are filed each month) – would be approximately $100,000 each year.[9]

Allowing PRT and PRTLD to consolidate operations also would result in savings of approximately $14 million in local taxes. Because they currently are required to operate as separate legal entities, PRT and PRTLD are forced to overpay taxes because one company's operating loss carry-forwards cannot be discounted from the other company's gains for tax purposes. These tax savings are significant to Petitioners, particularly given the access line loses

[7] *See Section 272(f)(1) Sunset of the BOC Separate Affiliate and Related Requirements*, Report and Order and Memorandum Opinion and Order, 22 FCC Rcd 16440, ¶ 85 (2007) ("*Section 272 Order*").

[8] Declaration of Adail Ortiz Santiago, ¶ 6 ("Santiago Declaration").

[9] *Id.*, ¶ 7.

and other competitive and economic conditions they currently confront, as described in greater detail below.[10]

The Commission previously has recognized that the "[s]tructural safeguards like those imposed in section 64.1903 of the Commission's rules" result in increased costs.[11] For example, according to the Commission, the separate legal entity requirement, 47 C.F.R. § 64.1903(a)(1), may "impose additional legal, accounting, and administrative costs, and additional complications regarding compensation, benefits, and personnel recruitment."[12] Similarly, the Commission has declined to impose the requirements in section 64.1903 to broadband services, noting that compliance with these obligations involves "great expense" and results in "less efficient" operations.[13]

The Commission previously has relieved the Bell Operating Companies ("BOCs") from the burden of complying with separate affiliate requirements. In the *Section 272 Order*, the FCC concluded that section 272 separate affiliate requirements, other than those in section 272(e), imposed significant costs on the BOCs and thus should sunset in favor of less burdensome safeguards. *Section 272 Order* ¶ 79. The FCC found that section 272 separate affiliate requirements, as well as those in section 64.1903, imposed a variety of significant costs on both the BOCs and the Commission and that such requirements disadvantaged the BOCs as compared to their competitors. *Id.* ¶ 82

[10] *Id.*, ¶ 8.

[11] *Section 272 Order*, ¶ 85.

[12] *See Second Reconsideration Order* ¶ 21 (finding that the separate affiliate requirement was too burdensome on independent LEC resellers and that the FCC could adequately address potential anticompetitive conduct in other ways).

[13] *Petition of Qwest Communications, Int'l, Inc. for Forbearance Under 47 U.S.C. § 160(c) from Title II and Computer Inquiry Rules with Respect to Broadband Services*, Memorandum Opinion and Order, FCC 08-168, 2008 FCC LEXIS 8123, ¶ 41 (2008).

The Commission's reasoning in the *Section 272 Order* applies equally here. Continuing to impose on Petitioners the costs associated with the structural separation requirements in section 64.1903 is inconsistent with the public interest and undermines the Commission's goal of promoting competition.[14]

This is particularly true given the competitive landscape in Puerto Rico. Today, Petitioners face intense competition in both local and long distance services from wireline and wireless providers. On the wireline side, PRT faces competition from four facilities-based competitors – Centennial, Choice Cable, Liberty, and OneLink – in addition to other resellers and providers, such as Telefónica Larga Distancia de Puerto Rico, Inc., a subsidiary of Telefónica de España, and WorldNet, that provide integrated local and long distance services. In the business market, Petitioners also compete against other well-established providers, such as PREPA.Net, Data Access, and Optivon, which offer comprehensive voice and data services to businesses in Puerto Rico. On the wireless side, there are dozens of carriers competing for residential and business customers.

As a result of the competitive conditions in Puerto Rico, PRT has experienced considerable erosion in its switched access lines; during the period 1998 to 2008, PRT lost approximately 398,000 access lines, or more than 32 percent of its total access lines. In 2009 alone, PRT has lost an additional 76,875 access lines, which represents more than 9 percent of its remaining access lines. PRT's competitors now serve a majority of business customers in Puerto

[14] In 2007, the Bureau denied a petition by Union Telephone Company ("Union") seeking a waiver of sections 64.1903(a)(2) and (b), in part, because the Commission was considering "the issues raised in Union's petition as they apply to all similarly situated incumbent LECs" in the proceeding that resulted in issuance of the *Section 272 Order. Union Telephone Co. Petition for Waiver of Sections 64.1903(a)(2) and 64.1903(b) of the Commission's Rules*, Order, 22 FCC Rcd 4998, ¶ 3 (2007). However, since that decision by the Bureau, the Commission issued its *Section 272 Order*, which did not resolve whether the requirements of Section 64.1903 should continue to apply to all independent incumbent LECs, including PRT.

Rico, and PRT's residential customers are increasingly "cutting the cord," choosing for economic reasons to rely solely upon wireless devices to meet their local and long distance needs.[15]

In light of these competitive conditions, Petitioners must continue to cut costs and increase efficiency in order to compete effectively, particularly since many of PRT's costs are fixed and the reduction in its access lines only increases average costs. Petitioners would realize costs savings and efficiencies from the consolidation of local and long distance operations; however, the structural separation requirements prevent Petitioners from doing so.

The net effect of the increased costs and inefficiencies resulting from compliance with the structural separation requirements is to place PRT and PRTLD at a significant competitive disadvantage. None of Petitioners' competitors is subject to these requirements, which make PRT and PRTLD "less effective marketplace competitors,"[16] which in turn will have serious consequences for consumers.

This competitive disadvantage to which Petitioners are subject as a result of the structural separation requirements is magnified by the unique nature of Puerto Rico.[17] For example, in 2007 the Commission noted "the unique challenges in providing telephone service in Puerto Rico . . . ."[18] Indeed, more than a decade ago, the Commission acknowledged the formidable

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[15] *See* Santiago Declaration, ¶¶ 2-3.

[16] *Id.*

[17] *Rural Health Care Support Mechanism,* Second Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 19 FCC Rcd 24613, ¶ 42 (2004); *see also Federal-State Joint Board on Universal Service*, Recommended Decision, 12 FCC Rcd 87, ¶ 430 (1996) ("*First Recommended Decision*") (recognizing "the special circumstances faced by carriers and consumers in the insular areas of the United States").

[18] *See, e.g., Federal-State Joint Board on Universal Service; High-Cost Universal Service Support*, CC Docket No. 96-45, WC Docket No. 05-337, Notice of Proposed Rulemaking, 20 FCC Rcd 19731, 19746, ¶ 33 (2005).

challenges facing insular areas: "insular areas generally have subscribership levels that are lower than the national average, largely as a result of income disparity, compounded by the unique challenges these areas face by virtue of their locations."[19]

One of the unique challenges facing Petitioners in serving Puerto Rico is the significantly higher costs they face as compared to other carriers their size, including:

- higher shipping-related costs, because all the supplies necessary for creating and maintaining a telecommunications infrastructure must be shipped and stored at considerable expense.[20]
- higher operational costs associated with the topography of Puerto Rico, such as the rough, hilly terrain and heavy tropical vegetation in sparsely populated inland areas that result in "telecommunications transmission facilities requir[ing] additional guying and anchoring and the distances between points [being] increased";[21] and

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[19] *Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, ¶¶ 112, 314, 414-415 (1997) ("*First Report and Order*"); *see also Federal-State Joint Board on Universal Service: Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, Further Notice of Proposed Rulemaking, 14 FCC Rcd 21177, ¶ 5 (1999) (noting that "[t]elephone penetration rates among low-income consumers, and in insular, high-cost, and tribal lands lag behind the penetration rates in the rest of the country"); *Federal-State Joint Board on Universal Service: Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, ¶ 32 (2000) (finding that "subscribership levels are below the national average in … certain insular areas").

[20] *See generally* Comments of the Public Service Commission of the United States Virgin Islands, CC Docket No. 96-45, at 3-4 (Dec. 17, 1999) ("*VIPSC Comments*"); Comments of the Government of Guam, CC Docket No. 96-45, at 3 (Dec. 17, 1999).

[21] *See VIPSC Comments* at 4; *see also* Comments of PRT, CC Docket No. 96-45, at 6-7 (Dec. 17, 1999) ("*PRT Underserved Comments*").

- higher operational costs associated with the climate of Puerto Rico, which is "corrosive and inhospitable to telecommunications equipment," leading to accelerated deterioration of equipment, and severe tropical weather in the Caribbean requires frequent reconstruction of existing infrastructure due to storm and hurricane damage.[22]

While incurring significantly higher operational costs, Petitioners are unable effectively to recover those costs over a large subscriber base due to the unique demographic challenges in Puerto Rico. For example, consumers in insular areas experience a disproportionately high cost of living that can be seen in the increased cost of basic commodities and consumer goods as compared to the mainland.[23] In addition, consumer incomes in insular areas are markedly lower than those on the mainland. The median household income of Puerto Rico is slightly less than half of that of the poorest U.S. state, and the current unemployment rate in Puerto Rico is approximately 16.2 percent.[24] Indeed, almost half of Puerto Rico's residents live below the

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[22] *VIPSC Comments* at 4. *See also Federal-State Joint Board on Universal Service*, Order, FCC 05-178, ¶ 2 (Oct. 14, 2005); Comments of Puerto Rico Telephone Company, Inc., CC Docket No. 96-45, at 7-8 (Dec. 17, 1999). For example, in 1999, Hurricane George caused more than $80 million in damages to PRT facilities. In 2004, Hurricane Jeanne caused $9.2 million in damage. *See, e.g.*, Letter from Nancy J. Victory, Counsel for PRT, to Jeffrey Carlisle, Chief, Wireline Competition Bureau, CC Docket No. 96-45, at 2 (Mar. 28, 2005) ("*2005 PRT Letter*"); Petition for Clarification and/or Reconsideration of the Puerto Rico Telephone Company, Inc., CC Docket No. 96-45, at 9 fn. 19 (Jan. 14, 2004).

[23] *See* Estudios Tecnicos Inc., *Economic Conditions: Puerto Rico and the United States*, at 2 (Jan. 31, 2006) (noting that basic commodities such as electricity cost 70 percent more in Puerto Rico than on the mainland, while basic consumer goods such as a Honda Pilot cost 20 percent more in Puerto Rico than in the United States).

[24] "Economy at a Glance: Puerto Rico," Bureau of Labor Statistics, United States Dep't of Labor, *available at* http://www.bls.gov/eag/eag.pr.htm (16.2% represents the unemployment rate in Puerto Rico for September 2009). In addition, based on 2008 data, the median household income of the United States is $52,175. Puerto Rico has a median household income of $18,610, or slightly less than half the income level of the poorest state, Mississippi ($37,404). U.S. Census Bureau, 2008 American Community Survey, *available at*

poverty line.[25] The relative poverty of insular areas vis-à-vis the mainland is evident through an analysis of the number of low-income Lifeline customers compared to the total number of residential lines in a state: Puerto Rico's proportion of total Lifeline lines (14.7 percent) is more than double the national average (5.1 percent), and almost ten times that of some of the poorest mainland states.[26] As of December 2009, approximately 23.2 percent of PRT's residential lines are Lifeline lines.

While Petitioners' competitors face many of the same challenges in serving Puerto Rico, they can and do selectively decide where to offer service. Consequently, unlike PRT, competitors often compete only in densely populated areas of Puerto Rico or target only profitable customers, leaving PRT to serve the less dense areas and less profitable customers. This competitive imbalance is further skewed by the Commission's structural separation requirements to which none of Petitioners' competitors is subject.

Under the circumstances, because of its unique service area and in light of the competitive pressures facing PRT and PRTLD, the costs and inefficiencies resulting from the separate affiliate requirements make it more difficult for Petitioners to meet the needs of the

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http://factfinder.census.gov/servlet/DatasetMainPageServlet?_program=ACS&_submenuId=&_lang=en&_ts=.

[25] U.S. Census Bureau, 2008 American Community Survey, *available at* http://factfinder.census.gov/servlet/DatasetMainPageServlet?_program=ACS&_submenuId=&_lang=en&_ts=.

[26] FCC, Wireline Comp. Bur., Indus. & Analysis Div., *Universal Service Monitoring Report*, at 2-45, 3-33 (Tables 2.6, 3.20) (rel. Dec. 2009) (finding that 14.7 percent of total access lines in Puerto Rico are Lifeline lines (136,395 out of 924,692 total lines in 2007) compared to 5.1 percent of lines nationwide (6,937,516 out of 135,787,625 total lines), and only 1.6 percent in Louisiana (29,447 out of 1,802,351 total lines). Note that these statistics include actual Lifeline customers, which is fewer than the number of eligible Lifeline customers. In all, the FCC has estimated nationally that only one-third of households eligible for Lifeline/Link-Up assistance actually enroll. *Lifeline and Link-Up*, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 8302, ¶ 1 (2004).

residents of Puerto Rico, thereby making "strict compliance [with those requirements] inconsistent with the public interest."[27] For these reasons, the special circumstances justifying a waiver of section 64.1903 are plainly present in this case.

[27] *See Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation,* 7 FCC Rcd 4355, 4364, n.118 (1992) (subsequent history omitted).

III. CONCLUSION

For the foregoing reasons, the Commission should grant the Petition and waive section 64.1903 of its rules.

Respectfully submitted,

By: ____________________

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Counsel for Puerto Rico Telephone Company, Inc. and Puerto Rico Telephone Larga Distancia, Inc.

Francisco J. Silva
PUERTO RICO TELEPHONE COMPANY, INC.
PUERTO RICO TELEPHONE LARGA DISTANCIA, INC.

January 26, 2010

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
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Petition of Puerto Rico Telephone Company, Inc. and Puerto Rico Telephone Larga Distancia, Inc. For Waiver of Section 64.1903 of the Commission's Rules	)	WC Docket No. 10-____
	)	
	)	

DECLARATION OF ADAIL ORTIZ SANTIAGO

I, Adail Ortiz Santiago, hereby declare the following:

1. I am Vice President and Chief Financial Officer of Puerto Rico Telephone Company, Inc. ("PRT"). In my current position, I am responsible for the preparation of accounting and financial reports for PRT and oversee all of the Company's accounting practices, including preparing budgets and filing tax returns. I also assist the President of PRT in the development of corporate strategy, providing advice on the financial impact of operational issues, strategies, and corporate objectives. I have worked for PRT for approximately 30 years.

2. PRT and its affiliate, Puerto Rico Telephone Larga Distancia, Inc. ("PRTLD") (collectively "Petitioners"), together form a diversified telecommunications company operating in the Commonwealth of Puerto Rico. Petitioners are committed to providing modern, quality telecommunications and advanced services to as many Puerto Ricans as possible. However, Petitioners face intense competition. In Puerto Rico, there are four facilities-based competitors – Centennial, Choice Cable, Liberty, and OneLink – in addition to other resellers and providers, such as Telefónica Larga Distancia de Puerto Rico, Inc., a subsidiary of Telefónica de España, and WorldNet, that provide integrated local and long distance services. In the business market,

Petitioners also compete against other well-established providers, such as PREPA.Net, Data Access, and Optivon, which offer comprehensive voice and data services to businesses in Puerto Rico. As of September 30, 2009, PRT's share of the business market was approximately 45 percent.

3. In addition to wireline competitors, Petitioners also face competition from wireless providers, which aggressively market their services throughout the island. Although precise data are not available, many residential customers have decided to "cut the cord," choosing to rely solely upon wireless devices to meet their telecommunications needs. Often times a customer's decision to rely solely upon wireless is driven by poor economic conditions on the island and the customer's inability to afford both a landline and wireless telephone.

4. Puerto Rico suffers from considerable poverty. The island's economy is struggling, with many employers reducing operations and eliminating jobs. According to the Bureau of Labor Statistics, the unemployment rate in Puerto Rico is currently approximately 16.2 percent. The relative poverty in Puerto Rico is clear from the high proportion of PRT's residential lines that are Lifeline lines. In December 2009, approximately 23.2 percent of PRT's residential lines were Lifeline lines.

5. As a result of competitive and economic conditions in Puerto Rico, PRT has experienced considerable erosion in its switch access lines; during the period from 1998 to 2008, PRT lost approximately 398,000 access lines, or more than 32 percent of its total access lines. In 2009 alone, PRT lost an additional 76,875 access lines, which represents more than 9 percent of its remaining access lines.

6. The FCC's separate affiliate requirements adversely impact PRT and PRTLD. For example, the joint ownership requirement in 47 C.F.R. § 64.1903(a)(2) prevents Petitioners from jointly owning soft switches or other innovative switching equipment that could be used to provide both local and long distance services. As a result of this requirement, PRTLD operates a DMS 250 switch located in Bayamon, Puerto Rico, which it otherwise has no business reason to maintain. If PRT and PRTLD were permitted to jointly own switching facilities, PRTLD would dispose of the DSM 250 switch, sell the land and building where this switch is currently located, and reduce unnecessary trunking capacity. PRT estimates that the elimination of the DMS switch would result in a one-time benefit to the Company of approximately $2.5 million and annual savings in cxcess of $250,000 (which consist primarily of operating expenses, insurance, and property taxes that would no longer be incurred).

7. In addition, as a result of the FCC's separate affiliate requirements, PRT and PRTLD must prepare separate financial statements and file separate tax returns and related filings, which results in additional cost. For example, if PRT and PRTLD were permitted to consolidate operations, there would be no need for PRT and PRTLD to file separate Audited Financial Statements or make other separate filings such as Income Tax Returns, Annual Reports, Property Tax Returns, Volume of Business Declarations (of which approximately 78 are filed annually) and Sales and Use Tax Returns (of which approximately 78 are filed each month). PRT estimates that the annual savings from the elimination of these separate filings would be approximately $100,000 each year.

8. Allowing PRT and PRTLD to consolidate operations also would result in savings of approximately $14 million in local taxes. Because they currently are required to operate as separate legal entities, PRT and PRTLD are forced to overpay taxes because one company's

operating loss carry-forwards cannot be discounted from the other company's gains for tax purposes. These tax savings are significant to Petitioners, particularly given the access line loses and other competitive and economic conditions they currently confront.

I declare under penalty of perjury that the foregoing is true and correct.

Adail Ortiz Santiago

EXECUTED: January 26, 2010