

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51
)	
High-Cost Universal Service Support)	WC Docket No. 05-337

COMMENTS OF PUERTO RICO TELEPHONE COMPANY, INC.

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Puerto Rico Telephone Company, Inc. (“PRT”) hereby responds to the Federal Communications Commission’s (“FCC” or “Commission”) Notice of Inquiry (“NOI”) and Notice of Proposed Rulemaking (“NPRM”) that seek comment on the proposed transition of the existing universal service support mechanisms to fund a new mechanism that explicitly supports broadband deployment known as the Connect America Fund (“CAF”).¹ PRT applauds the Commission’s plan to create a CAF and, specifically, the Commission’s focus on designing the

¹ *Connect America Fund, A National Broadband Plan for Our Future, High-Cost Universal Service Support*, Notice of Inquiry and Notice of Proposed Rulemaking, FCC 10-58 (rel. Apr. 21, 2010) (“*Connect America NOI*”). Specifically, the FCC seeks comment on three broad issues. First, the FCC seeks comment on the use of a model to quantify the amount of universal service support necessary to support networks that provide broadband and voice service. *Id.*, ¶ 13. Second, the FCC seeks comment on approaches to target funding on an accelerated basis in order to extend broadband networks in unserved areas. *Id.* Third, the FCC seeks comment on specific proposals to cap and cut the legacy high-cost programs and realize savings that can be shifted to targeted investment in broadband infrastructure. *Id.* With respect to all three inquiries, the Commission encourages input on “unique circumstances in insular areas that would necessitate a different approach.” *Id.*

broadband universal service program to meet the needs of insular areas.² Tailoring universal service mechanisms to address the unique needs of insular areas is long overdue.³

I. INTRODUCTION AND SUMMARY

Insular areas like Puerto Rico have long lagged behind the rest of the nation in both telephone and broadband deployment and subscribership. Absent Commission intervention, as the rest of the country moves forward, this digital divide will continue to widen, denying the people of insular areas the critical economic, social, civic, health, and educational benefits of broadband. Now, more than ever, the Commission must fulfill its statutory mandate to ensure that the people of insular areas have access to telecommunications and information services that are “reasonably comparable” to those in urban areas.⁴

To assist the Commission in fulfilling its statutory mandate to meet the broadband needs of insular areas, PRT offers five recommendations.

² The FCC is statutorily obligated to promote universal service in insular areas. To this end, the Commission recently promised to “strive to further increase telephone subscribership rates in Puerto Rico and to ensure that high-quality voice and broadband services are available in insular areas.” *High-Cost Universal Service Support, Federal-State Joint Board on Universal Service, Lifeline and Link-Up*, Order and Notice of Proposed Rulemaking, 24 FCC Rcd 4136, ¶ 2 (rel. Apr. 16, 2010) (“*2010 Insular Order*”).

³ Since the passage of the 1996 Act, P.L. 104-104, the Commission has yet to adopt a universal service mechanism that addresses the unique needs of insular areas despite the call of PRT, a number of minority groups, and the Telecommunications Regulatory Board of Puerto Rico to do so. As a result, despite having a “materially lower” level of telephone and broadband subscribership than the rest of the nation, as non-rural insular area, Puerto Rico receives zero high cost intrastate loop support. *Id.*, ¶ 49. PRT has recently petitioned the Commission to reconsider its *2010 Insular Order* and continues to urge the Commission to act expeditiously to reverse this unlawful order.

⁴ 47 U.S.C. § 254(b).

- *First*, the Commission should reiterate that Section 254 of the Communications Act requires that “insular” areas have access to “advanced telecommunications and information services” that are “reasonably comparable” to those in urban areas.⁵
- *Second*, the high cost model should not apply to insular areas; Puerto Rico and other insular areas require their own broadband funding mechanism. For years, the Commission tried – and failed – to satisfy the communications needs of unserved areas in insular areas by treating them pursuant to mechanisms built for dissimilarly situated nonrural service providers. But Puerto Rico needs a distinct mechanism to address its unique situation, including the vast low-income customer base, the island’s weak overall economic health, and the additional expenses of providing service in an insolated and tropical area like Puerto Rico.
- *Third*, the FCC should establish an expedited pilot program to get vital financial support for broadband deployment to Puerto Rico and other insular areas. As detailed below, Puerto Rico fits the Commission’s vision of an unserved area that requires immediate funding: there is “no private sector business case to provide broadband and voice services” and distributing such funds can be done in “an efficient, targeted manner.”⁶
- *Fourth*, re-targeting ICLS support in Puerto Rico should be predicated on an operational CAF and significant improvements in broadband and telephone subscription in Puerto Rico. Altering current ICLS distributions before these conditions are fulfilled could have devastating consequences to Puerto Rico’s broadband and telecommunications deployment.
- *Fifth*, broadband adoption and availability should not be considered separately in insular areas like Puerto Rico. Increasing subsidies for low-income broadband users is of little value if broadband providers do not have the incentive to deploy broadband in the first place.

Absent rapid Commission action, the broadband availability gap in Puerto Rico will continue its steady increase, and the island’s citizens will lose out on the tremendous economic, employment, health, and educational benefits that universal broadband provides to the rest of the country. Given this, PRT encourages the FCC to quickly adopt a plan to ensure that universal broadband service reaches insular areas of the Nation.

⁵ *Id.*

⁶ *Connect America NOI*, ¶ 2.

II. SECTION 254 OF THE COMMUNICATIONS ACT REQUIRES THAT ANY BROADBAND UNIVERSAL SERVICE PROGRAM FUND BROADBAND DEPLOYMENT AND ADOPTION IN INSULAR AREAS.

Section 254(b) speaks in plain and mandatory terms. It provides that the Commission “shall” base its universal service support mechanisms on the principle that consumers in “insular” areas should have access to “advanced telecommunications and information services” that are “reasonably comparable” to those in urban areas.⁷ Section 254(b)(3) specifically lists “insular” areas as a category separate and apart from “rural” and “high cost” areas, thus requiring the Commission to address the lack of access to broadband services in insular areas such as Puerto Rico.⁸ The Commission itself agrees that “Congress intended that consumers in insular areas, as well as in rural and high-cost areas, have access to affordable telecommunications and information services.”⁹ However, thus far the Commission has not taken the steps necessary to fulfill Congress’s directive.

To date, the Commission has failed to account for the unique nature of insular areas in its legacy high cost non-rural model. Although Section 254(b)(3) specifically identifies three

⁷ 47 U.S.C. § 254(b).

⁸ *See, e.g., Regions Hosp. v. Shalala*, 522 U.S. 448, 467 (1998) (“It is a cardinal rule of statutory construction that significance and effect shall, if possible, be accorded to every word.”) (internal quotation marks and citation omitted); *United States v. Menasche*, 348 U.S. 528, 538-39 (1955) (explaining that a law must be read “to give effect, if possible, to every clause and word of a statute”); *see generally* 2A Norman J. Singer, *Sutherland Statutory Construction* § 46.06 (6th ed. 2000).

⁹ *See Federal-State Joint Board on Universal Service, High-Cost Universal Service Support*, Notice of Proposed Rulemaking, 20 FCC Rcd 19731, ¶ 33 (2005) (“2005 NPRM”). This conclusion is consistent with the Commission’s previous acknowledgment that Congress intended to provide universal service support for the benefit of consumers in insular areas. *See, e.g., Rural Health Care Support Mechanism*, Second Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 19 FCC Rcd 24613, ¶ 42 (2004) (noting “Congressional intent ... support[ing] the adoption of special mechanisms by which to calculate support for insular areas”).

regions entitled to receive universal service support – rural, insular, and high cost areas – the Commission has attempted to comply with this statutory command by adopting specific funding mechanisms only for rural and high cost areas. The Commission has not fulfilled its clear and unambiguous statutory requirement to ensure that consumers in insular areas have access to reasonably comparable “telecommunications and information services.”¹⁰ This failure has contributed to poor telecommunications infrastructure deployment in insular areas like Puerto Rico. And because telecommunications infrastructure is critical to broadband deployment, Puerto Rico’s broadband deployment and subscribership lags significantly behind the rest of the nation – only 24 percent of households in Puerto Rico have high-speed Internet access connections, compared with 60 percent across the rest of the United States.¹¹ Providing targeted insular support for broadband services to Puerto Rico, as required by statute, will narrow this gap.

III. THE PROPOSED HIGH COST MODEL DOES NOT ADDRESS THE UNIQUE CHARACTERISTICS OF PUERTO RICO AND OTHER INSULAR AREAS.

Puerto Rico and other insular areas require their own broadband funding mechanism. For years, the Commission tried to satisfy the communications needs of Puerto Rico based on a model that penalizes Puerto Rico for its population density without considering its poor population and high costs of deployment. As a result, by all metrics, Puerto Rico lags behind every other state in the country with respect to broadband and voice penetration.¹²

¹⁰ 47 U.S.C. § 254(b)(3) (emphasis added).

¹¹ See Industry Analysis and Competition Division, Wireline Competition Bureau, *High-Speed Services for Internet Access: Status as of December 31, 2008*, at Table 21 (Feb. 2010), available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-296239A1.pdf (“2010 Form 477 Report”).

¹² *Id.* Additionally, the Commission’s most recent figure for Puerto Rico’s telephone penetration rate (91.9%) is still well below the penetration rate in all U.S. states (98.2%) and

Fortunately, the instant proceeding provides the current Commission with a chance to start from scratch. To this end, the Commission should design two distinct funding mechanisms: one for insular areas and one for rural areas. As a first step at drawing a line between insular and rural funding, the Commission must not apply the proposed high cost model to Puerto Rico and other insular areas. This model admittedly ignores the unique characteristics and needs of Puerto Rico. The proposed cost model does not use any data from Puerto Rico or the other territories in its design. The Commission candidly explains in the cost model that “due to insufficient demographic and infrastructure data to calculate baseline availability for Puerto Rico and the U.S. Virgin Islands in the Caribbean, and Guam, American Samoa and the Northern Marianas in the Pacific, these areas are excluded from further analysis.”¹³ Clearly, the Commission cannot apply a cost model to insular areas if the Commission did not rely on insular data when formulating the model.

The lack of consideration for insular areas in the cost model is evident. Several misguided assumptions in the cost model would likely prevent funding for providers in Puerto Rico. This directly conflicts with Section 254’s universal service mandate and is simply unacceptable from a public policy perspective. First, the model relies heavily on line density. This would exclude Puerto Rico from support despite the fact that Puerto Rico faces other compelling challenges and costs, including the poorest population per capita in the United States.

New Mexico (95.7%), the state with the lowest penetration rate. *Universal Service Monitoring Report*, CC Docket No. 98-202, Table 6.4 (rel. Dec. 2009). In fact, more than 200,000 households have no access to wireline infrastructure. *See* Letter from Nancy J. Victory, Counsel to PRTC, to Marlene H. Dortch, CC Docket No. 96-45, WC Docket No. 05-337 (filed April 12, 2010). Even the Commission candidly recognized “that there may be a significant number of low-income consumers in Puerto Rico who remain unable to afford access to voice telephone service” and that “subscriberhip in Puerto Rico remains materially lower than in any other jurisdiction reported by the Census Bureau.” *2010 Insular Order*, ¶ 49.

¹³ *CAF Cost Model* at 17.

Second, the model makes demographic assumptions that are not accurate for Puerto Rico, which is demographically unique. The cost model assumes that “[t]he take rate for broadband in unserved areas will be comparable to the take rate in served areas with similar demographics.”¹⁴ But no served area in the nation has demographics that are “comparable” to Puerto Rico. As noted above, the customer base in Puerto Rico has the lowest per capita income, with 44.8 percent of population living below the poverty line.¹⁵ Historically, this poverty has fostered very low adoption rates for all services. PRT anticipates a similar result if the Commission shoehorns Puerto Rico into the proposed rural cost model instead of adopting a distinct universal service mechanism for insular areas. Third, the model does not account for the impact of the Commission’s failed, legacy universal service policy in Puerto Rico, which did not incentivize wireline infrastructure investment. Puerto Rico already suffers from inadequate telecommunications infrastructure compared to the rest of the country. The Commission cannot adopt a cost model for Puerto Rico that is premised on leveraging existing networks, when the data on which cost conclusions are based comes from states with more extensive build-out than Puerto Rico.

IV. THE FCC SHOULD ESTABLISH AN EXPEDITED PILOT PROGRAM TO GET VITAL SUPPORT TO INSULAR AREAS.

Puerto Rico requires immediate financial assistance to overcome the dearth of broadband investment and deployment on the island. As such, PRT wholeheartedly supports the Commission’s plans to “create an accelerated process to distribute funding to support new deployment of broadband-capable networks in unserved areas” while the Commission develops

¹⁴ *Id.* at 3.

¹⁵ Alemayehu Bishaw and Trudi J. Renwick, Poverty 2007 and 2008: American Community Survey, *American Community Survey Reports* (Issued Sep. 2009), available at <http://www.census.gov/prod/2009pubs/acsbr08-1.pdf>.

the new CAF funding mechanism.¹⁶ The Commission notes that “[s]uch funding could, for instance, be provided to areas identified as ‘unserved’ once the Broadband Data Improvement Act mapping is completed in February 2011.”¹⁷ PRT anticipates that the broadband mapping data will mirror current data that shows Puerto Rico lagging far behind the rest of the nation in both broadband deployment and subscribership.¹⁸ Given this, the Commission’s top priority should be targeting new, accelerated broadband funding to unserved areas of Puerto Rico and other insular areas.¹⁹ This approach would satisfy the Commission’s Section 254 obligations to insular areas discussed above. And, as detailed below, this approach would satisfy the Commission’s twin goals – articulated in the NOI – of providing funding in areas where there is “no private sector business case to provide broadband and voice services” and distributing such funds in “an efficient, targeted manner.”²⁰

A. Puerto Rico Requires Accelerated Broadband Funding Because The Economics of Deployment in Poor Areas Leave Many Unserved.

Establishing a business case – and securing credit – to develop and expand broadband infrastructure in Puerto Rico is very difficult. The lack of broadband deployment and

¹⁶ *Connect America NOI*, ¶ 43. Specifically, the Commission seeks comment on the best way to create an accelerated process to distribute funding to areas defined as “unserved” by the Commission’s Broadband Data Improvement Act mapping efforts, which is scheduled for completion in February 2011.

¹⁷ *Id.*

¹⁸ As noted above, the Commission recently determined that only 24% of households in Puerto Rico have high-speed Internet access connections, compared with 60% across the rest of the United States. *See 2010 Form 477 Report*.

¹⁹ Specifically, the Commission should adopt the National Broadband Plan proposal to “create a fast-track program in CAF for providers to receive targeted funding for new broadband construction in unserved areas.” *Connect America NOI*, ¶ 10.

²⁰ *Id.*, ¶ 2.

subscription to date bears this out. As noted above, only 24 percent of households in Puerto Rico have high-speed Internet access connections, compared with 60 percent across the rest of the United States.²¹ PRT attributes the lack of broadband connectivity to a number of factors, including the extensive poverty in Puerto Rico, the island's poor overall economic health, and the unique expenses of providing service in an insolated and tropical area like Puerto Rico.

The lack of broadband deployment and subscription is not surprising considering that 44.8 percent of the Puerto Rican population lives below the poverty line.²² In fact, the potential customer base in Puerto Rico has the lowest median household income in the United States. Recent United States Census data estimates that the median household income in Puerto Rico is \$18,401.²³ By contrast, Mississippi, the poorest state in the country, has a median household income of \$37,090, and the national median household income is \$52,029.²⁴ Unfortunately, there does not appear to be any near term solution to the poverty in Puerto Rico. Indeed, unemployment plagues Puerto Rico. In April 2010, the unemployment rate in Puerto Rico was a

²¹ See *2010 Form 477 Report*, at Table 21. It is worth noting that “broadband service” was defined in the above-cited report as 768 kbps downstream and 200 kbps upstream. The *NOI* proposes a minimum threshold for broadband of 4 Mbps downstream and 1 Mbps upstream.

²² Alemayehu Bishaw and Trudi J. Renwick, *Poverty 2007 and 2008: American Community Surveys*, *American Community Survey Reports* (Issued Sep. 2009), available at <http://www.census.gov/prod/2009pubs/acsbr08-1.pdf>.

²³ “Median Household Incomes,” U.S. Census Bureau, available at http://factfinder.census.gov/servlet/GRTTable?_bm=y&-geo_id=01000US&_box_head_nbr=R1901&-ds_name=ACS_2008_1YR_G00_&-redoLog=false&-format=US-30&-mt_name=ACS_2005_EST_G00_R2001_US30&-CONTEXT=grt.

²⁴ Other rural states have even larger median household incomes. Alaska, \$68,460; Wyoming, \$53,207; Nebraska, \$49,693; and Montana, the 42nd poorest state, had a median household income of \$43,654.

staggering 17.2%, up from 10.8% in 2005.²⁵ By contrast, Mississippi’s unemployment rate in April 2010 was 11.5%, and the national unemployment rate was 9.9%.²⁶ Absent increased universal service support, the economic conditions will continue to foreclose widespread deployment of broadband in Puerto Rico because wireline providers will remain unable to justify the enormous expense of deployment.

And the existing USF adoption programs directed at low income individuals – Lifeline and Link-Up, standing alone – do not solve all of economic issues concerning the deployment of broadband in extraordinarily poor areas of the United States. As detailed in Section VI, Lifeline and Link Up programs are most effective where facilities to provide services have already been constructed. However, where broadband facilities are largely unconstructed (as in Puerto Rico), such programs do not assist providers to make the economic calculus that the construction of new facilities is economically reasonable. Specifically, providers are unable to accurately predict if local populations: (1) qualify for subsidies; (2) can afford any ongoing and additional subscription costs; (3) are even interested in broadband; and (4) can afford the computers and equipment necessary to benefit from broadband. Without some ability to project higher subscription rates or predictable subsidization of the construction and maintenance of facilities, the economics of deploying infrastructure in poor unserved areas simply foreclose construction of the facilities.

²⁵ “Economy at a Glance: Puerto Rico,” Bureau of Labor Statistics, *available at* <http://www.bls.gov/eag/eag.pr.htm>.

²⁶ “Economy at a Glance: Mississippi,” Bureau of Labor Statistics, *available at* <http://www.bls.gov/eag/eag.ms.htm>; “Economy at a Glance: United States,” Bureau of Labor Statistics, *available at* <http://www.bls.gov/eag/eag.us.htm>. Again, other rural states enjoy a much more stable workforce: Alaska had 8.4% unemployment; Wyoming had 7.1% unemployment; Nebraska had 5.0% unemployment; and Montana had 7.1% unemployment. *Id.*

Separate and apart from individual poverty, macro-level financial struggles island-wide hinder broadband deployment. The Puerto Rican banking industry's situation is dire when compared to the rest of the United States.²⁷ While 3 percent of loans at mainland banks are past due, Puerto Rican banks face more than twice that number with 8.2 percent of their loans either past due or in default.²⁸ And of the 10 banks headquartered in Puerto Rico at the beginning of this year, the FDIC forced the closure and sale of three banks in April.²⁹ By contrast, only 200 of the 8,000 lenders in the United States have closed.³⁰ With Puerto Rican banks struggling, broadband providers, like other businesses in Puerto Rico, find it difficult to secure funding for projects in Puerto Rico. Further, Puerto Rico has been in a recession since 2006, and the government has had problems achieving fiscal balance.³¹ Last year, the Puerto Rican government had an estimated \$3.2 billion deficit,³² and a total budget of \$26.6 billion.³³ To chip

²⁷ See "Puerto Rico Fiscal Situation Update," Center for the New Economy, Vol. 4, No.1, at 4 (May 2010) ("Private financial institutions in Puerto Rico are under great strain. Total commercial bank assets in Puerto Rico have declined from \$101.5 billion as of December 2005 to \$89.6 billion as of December 31, 2009, a decline of \$11.9 billion, or 11.7 percent. This means Puerto Rico is experiencing a significant credit contraction as the local financial industry is delevering to bring the asset side of balance sheets into line with capital requirements.").

²⁸ See "Puerto Rican Lenders Face Their Own Crisis," New York Times (April 29, 2010), available at http://www.nytimes.com/2010/04/30/business/30fdic.html?_r=1&scp=1&sq=puerto%20rico%20unemployment&st=cse ("New York Times Article").

²⁹ See "Puerto Rico Governor, FDIC's Bair Call Bank Closure a Milestone," Wall Street Journal (May 1, 2010), available at <http://online.wsj.com/article/SB10001424052748704608104575218553966868356.html>.

³⁰ See New York Times Article.

³¹ "Puerto Rico's First BanCorp Ordered To Shape Up," Wall Street Journal (June 9, 2010), available at http://online.wsj.com/article/BT-CO-20100609-711917.html?mod=WSJ_latestheadlines.

³² "Puerto Rico's Governor Aims To Cut Taxes And Deficit, Too," Wall Street Journal (May 27, 2010), available at <http://online.wsj.com/article/BT-CO-20100527-706425.html>.

away at this deficit, the Commonwealth's government laid off almost 17,000 public employees last year.³⁴ At bottom, these macro-level problems – which are unique to Puerto Rico in their severity – place a stranglehold on broadband investment and deployment in Puerto Rico.

Further, broadband providers – and the investment community – are reluctant to invest heavily in broadband in Puerto Rico because of the unique operational expenses of providing service in an insolated and tropical area. Indeed, PRT faces significantly higher operational costs compared to other carriers its size,³⁵ such as:

- Higher shipping-related costs, because all the supplies necessary for creating and maintaining a telecommunications infrastructure must be shipped and stored at considerable expense;³⁶
- 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”;³⁷ and
- 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

³³ “Government Layoffs on Horizon,” *New York Times* (March 3, 2009), *available at* http://www.nytimes.com/2009/03/04/us/04brfs-GOVERNMENTLA_BRF.html.

³⁴ “Puerto Rico to Lay off 16,000 Workers, Cut Deficit,” *ABC News* (Sept. 25, 2009), *available at* <http://abcnews.go.com/International/wireStory?id=8674530>.

³⁵ The Commission has no basis to consider PRT's parent, América Móvil – an entirely separate company – in the evaluation of PRT's size and scale, as the Commission does not do so when considering the size and scale of rural carriers. *See 2010 Insular Order*, ¶ 38.

³⁶ *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).

³⁷ *See VIPSC Comments* at 4; *see also* Comments of PRT, CC Docket No. 96-45, at 6-7 (Dec. 17, 1999).

Caribbean requires frequent reconstruction of existing infrastructure due to storm and hurricane damage.³⁸

Even the Commission – more than a decade ago – acknowledged the formidable 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.”³⁹ Without additional, targeted broadband funding – combined with expanded FCC adoption programs – there is no business case for private investment in broadband deployment in unserved areas in Puerto Rico.

B. The FCC Should Award Support to Companies That Will Put Accelerated Broadband Funding to Work in an “Efficient, Targeted Manner.”

The Commission could realize tangible and rapid results if it provides accelerated broadband funding to companies that are able to leverage existing infrastructure to deploy broadband to unserved areas. For example, as an existing provider of wireline broadband, PRT understands the challenges of broadband deployment in Puerto Rico and the most cost-effective

³⁸ *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); *Petition for Clarification and/or Reconsideration of the Puerto Rico Telephone Company, Inc.*, CC Docket No. 96-45, at 9 n.19 (Jan. 14, 2004).

³⁹ *Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, ¶¶ 112, 314, 414-415 (1997); *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”).

ways to deliver broadband to unserved areas. PRT already has invested significant financial and personnel resources over the last several years to determine how broadband could be deployed throughout Puerto Rico. Unfortunately, and as detailed above, PRT has been unable to establish a viable business case for broadband across the entire island without support from the universal service fund.

However, PRT projects that it could run its broadband infrastructure into unserved areas for a fraction of what the Commission projects that it will cost per household in other unserved areas of the country. The National Broadband Plan (“NBP”) estimates that the most expensive 250,000 unserved housing units represent a disproportionate share of the total investment gap – \$14 billion.⁴⁰ This represents less than two-tenths of one percent of all housing units in the United States; the average amount of funding for terrestrial broadband per household to close the gap for these units is an estimated \$56,000.60.⁴¹ In Puerto Rico, PRT could reach the same number of unserved housing units for a fraction of the cost. This is so because PRT could leverage its infrastructure to provide broadband in the most cost effective manner possible. The FCC has recognized that 12,000 foot-loop-DSL provides the “best economics in delivering 4 Mbps down- and 1 Mbps up-stream to the unserved areas of the country.”⁴² Further, “[s]ince DSL is deployed over the same existing twisted-pair copper network used to deliver telephone service, it benefits from sunk costs incurred when first deploying the telephone network.”⁴³

⁴⁰ Omnibus Broadband Initiative, Federal Communications Commission, *Connecting America: The National Broadband Plan*, at 138 (2010) (“*National Broadband Plan*”).

⁴¹ *Id.*

⁴² See “The Broadband Availability Gap,” Omnibus Broadband Initiative Technical Paper 1, FCC, at 59, available at Appendix C of *Connect America NOI* (“*CAF Cost Model*”).

⁴³ *Id.* at 85.

PRT, as an existing wireline voice and broadband provider, would leverage its current network to cut costs when deploying to unserved areas. This would ensure faster and wider broadband deployment than what wireless providers could offer.⁴⁴ Currently, there are 1,413,535 homes in Puerto Rico, and PRT passes by 1,214,546 of these homes with its wireline telephony network. Thus, PRT can leverage its existing wireline infrastructure to expand broadband service to hundreds of thousands of consumers in Puerto Rico for a modest increase in universal service funding.

V. EXISTING ICLS DISTRIBUTIONS TO PUERTO RICO SHOULD CONTINUE UNTIL BROADBAND SUPPORT MECHANISMS ARE OPERATIONAL.

Any change in universal service funding in Puerto Rico could have devastating consequences given the fragility of the island's economic situation, the lack of broadband deployment, and the low telephone and broadband subscription rates when compared to the rest of the country. Accordingly, the Commission should continue ICLS distribution to Puerto Rico until: (1) the CAF fund is fully operational; and (2) Puerto Rico has caught up to the rest of the United States in broadband and telephone subscription. As PRT repeatedly has detailed, the Commission has not fulfilled its statutory requirement to ensure that consumers in insular areas like Puerto Rico have access to reasonably comparable "telecommunications and information services."⁴⁵ This is due, in part, to the Commission's failure to appropriately fund facilities deployment in Puerto Rico based on the high costs of deployment and low subscription rates. This has produced a situation in which Puerto Rico lags far behind the rest of the nation in

⁴⁴ To further ensure the efficient use of accelerated broadband funding in Puerto Rico, the Commission could limit this targeted funding to providers that will immediately provide 4 Mbps downstream and 1 Mbps upstream.

⁴⁵ For a detailed discussion of this issue, *see* Petition for Reconsideration of Puerto Rico Telephone Company, Inc., WC Docket No. 05-337 (filed April 27, 2010).

broadband deployment and subscribership. Until the two prerequisites above are fulfilled, the Commission should ensure that Puerto Rico’s existing ICLS distributions continue to fund communications in Puerto Rico. At bottom, the Commission should focus on providing additional funding to Puerto Rico while it re-targets existing funding to ensure ubiquitous broadband deployment.

VI. BROADBAND ADOPTION AND AVAILABILITY SHOULD NOT BE CONSIDERED SEPARATELY IN INSULAR AREAS LIKE PUERTO RICO.

Increasing Lifeline and Link-Up subsidies for low-income broadband users is of little value if broadband providers do not have the incentive to deploy broadband in the first place. Although the *National Broadband Plan* considers broadband availability and adoption to be separate issues,⁴⁶ this segregated framework makes little sense for insular areas like Puerto Rico. As detailed in Section IV, establishing a “private sector business case”⁴⁷ to develop and expand broadband infrastructure in Puerto Rico is very difficult due to a number of factors, including the island’s low-income customer base, its weak economic health, and the unique expenses of providing service in an insolated and tropical area like Puerto Rico. Under these circumstances, widespread poverty presents significant barriers to both broadband adoption and availability.

Without existing broadband facilities throughout the island, the Commission’s traditional low-income subsidies administered through the Lifeline and Link-Up programs cannot help address the hurdles to broadband subscribership in Puerto Rico – no matter how the programs are enhanced. Indeed, low-income subsidies are intended for qualifying individuals that need assistance to pay for subscription or service initiation fees where services are already available,

⁴⁶ See *National Broadband Plan* at Chapters 8-9.

⁴⁷ The Commission is designing its broadband universal service program to provide funding in geographic areas where there is “no private sector business case to provide broadband and voice services.” *Connect America NOI*, ¶ 2.

not to create incentives for providers to deploy infrastructure. As PRT has explained in the past, although 134,146 of its residential customers benefit from the Lifeline program, Lifeline and Link-Up programs alone have not successfully improved Puerto Rico's historically lagging telephone and broadband subscribership.⁴⁸ And even an enhanced Link-Up program without additional infrastructure support would be inadequate to compensate for the substantial cost of extending lines and maintaining operations in Puerto Rico.⁴⁹

VII. CONCLUSION

The Commission should satisfy the broadband needs of unserved insular areas by following the five recommendations proposed above.

Respectfully submitted,

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⁴⁸ Comments of Puerto Rico Telephone Company, Inc. WC Docket No. 05-337, CC Docket No. 96-45, & WC Docket No. 03-109 (filed Jun. 7, 2010) ("PRT Link Up Comments"); *see also* 2010 *Insular Order*, ¶ 51; *id.*, ¶ 49 (acknowledging "that there may be a significant number of low-income consumers in Puerto Rico who remain unable to afford access to voice telephone service.").

⁴⁹ PRT Link Up Comments at 5-7.