

**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

REPLY COMMENTS OF PR WIRELESS, INC.

PR Wireless, Inc. (“PR Wireless” or the “Company”) hereby submits these reply comments, pursuant to the Commission’s Notice of Inquiry and Notice of Proposed Rulemaking (“NOI and NPRM”) in the above-captioned proceeding.¹

As noted in its Comments,² PR Wireless is an Eligible Telecommunications Carrier (“ETC”) in Puerto Rico doing business under the Open Mobile brand. The Company became eligible for support from the High Cost and Low Income Programs of the federal Universal Service Fund (“USF”) in 2007, and has since become a leader in increasing the availability and affordability of wireless service in the rural, high-cost areas of Puerto Rico.

I. BACKGROUND

As PR Wireless and other Commenters in this proceeding have pointed out,³ the Commission’s statutory mandate with respect to insular areas is clear. Section 254 of 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, 2010 WL 1638319, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 05-337, FCC 10-58 (rel. Apr. 21, 2010) (“*NOI*” and “*NPRM*”).

² See Joint Comments of AST Telecom, LLC d/b/a BlueSky Communications, Choice Communications, LLC, and PR Wireless, Inc. (“Joint Comments”) at 3.

³ See Joint Comments at 8; Comments of Puerto Rico Telephone Company, Inc. (“PRTC Comments”) at 3.

Communications Act, as amended (the “Act”), provides that consumers, *including those in insular areas*, should have access to telecommunications and information services that are reasonably comparable to the services provided in urban areas and at reasonably comparable rates.⁴ Yet the people of Puerto Rico are still waiting to realize ubiquitous wireless and broadband services, as they are available on the U.S. mainland. This undoubtedly demonstrates that the current universal service system has failed to meet its objective in insular areas.

PR Wireless is encouraged that the Commission recently reaffirmed to Congress its commitment to using the instant *NOI and NPRM* as a means to create a permanent solution to the problems faced in insular areas. Most recently, in response to letters from several members of Congress expressing concern about the lack of an insular support mechanism for Puerto Rico, Chairman Genachowski stated:

For a permanent solution, I am committed to accomplishing comprehensive reform of universal service – as recommended in the National Broadband Plan – to provide a more efficient and effective vehicle for addressing service issues in insular and high-cost areas like Puerto Rico.⁵

While PR Wireless supports the goals of the National Broadband Plan generally,⁶ the unique geographic, economic and social conditions in insular areas present distinct challenges to the provision of wireless and broadband service that warrant special consideration by the Commission.

⁴ See 47 U.S.C. §254(b)(3).

⁵ See Letters to Congressmen Pedro R. Pierluisi, José E. Serrano, Luis V. Gutierrez and Congresswoman Nydia M. Velázquez from Chairman Julius Genachowski, dated July 21, 2010. See also *NPRM* at para. 50 (“[W]e request comment on whether there are any unique circumstances in insular areas that would necessitate a different approach.”), and *High Cost Universal Service Support, Federal-State Joint Board on Universal Service, Lifeline and Link-Up*, WC Docket No. 05-337, CC Docket No. 96-45, Order and Notice of Proposed Rulemaking, 25 FCC Rcd 4136, ¶ 2 (2010) (“*PRTC Order*” or “*Low Income NPRM*”).

⁶ Omnibus Broadband Initiative, FCC, Connecting America: The National Broadband Plan (Mar. 16, 2010) (“NBP” or “Plan”).

Accordingly, the Commission should significantly enhance high-cost support to wireless carriers serving insular areas or, at a minimum, continue to provide the existing levels of high-cost support until there is reliable evidence that the Territories have comparable access and choices in telecommunications service as available in the U.S. mainland.

II. DISCUSSION

A. The Record Before the Commission Demonstrates the Substantial and Unique Challenges in Insular Areas

The Comments in this proceeding have provided the Commission with a substantial record of the unique challenges and increased cost associated with providing service in insular areas that cannot be ignored.⁷ The insular areas all face unique geographic and climatic conditions, as well as extreme distances from the U.S. mainland, that result in a significantly higher cost of providing telecommunications services.⁸ The insular areas suffer from depressed economies in financial crisis, far worse than experienced on the U.S. mainland, which has become an obstacle for supporting even core business and basic wireless service - let alone the adoption of broadband.⁹ All insular areas also have tremendously low-income levels and

⁷ See Joint Comments at 4; PRTC Comments at 4; Comments of Public Service Commission of the U.S. Virgin Island (“USVI PSC Comments”) at 3; Comments of GTA Telecomm, Inc. (“GTA Comments”) at 2.

⁸ See *e.g.*, Joint Comments at ii (“... the geographic isolation, difficult terrain and severe tropical weather result in extraordinary high telecommunications infrastructure construction and maintenance costs.”); USVI PSC Comments at 3 (“The physical environment of the Virgin Islands presents unique challenges to service providers. Much of the Territory is mountainous with deep valleys. Radio transmission to these valleys is limited except where there are towers nearby. With a tropical climate, corrosion of telecommunications infrastructure is particularly problematic. Further, our telecommunications infrastructure is subject to damage by hurricanes or tropical storms.”); and GTA Comments at 4 (“GTA’s network was built to last, using buried plant able to withstand severe weather conditions such as typhoons and still be able to provide communications services through the most exigent circumstances.”).

⁹ See Joint Comments at 5; USVI PSC Comments at 6 (“unreasonable to take funds away from voice grade when [those] systems need to be rebuilt from the ground up and our economy is in such a fragile condition.”).

pervasive poverty that, more prominently in Puerto Rico, create inequalities in access and affordability of wireless and broadband service.¹⁰

The unique geographic, economic and social challenges faced by Puerto Rico and other insular areas combine to produce consistently low subscriber levels in the territories, resulting in unavailable or high-cost telecommunication service. While the Commission has historically attributed its success in providing telephone service to low-income households to low subscribership levels,¹¹ the subscribership rates in the insular areas are far behind the mainland U.S., without any specific action from the Commission to correct this disparity.¹²

Any reform of universal service must include a separate mechanism for insular areas. PR Wireless notes that while the Chairman has made statements in support of comprehensive reform to improve access to telecommunications service in Puerto Rico, he reiterated the same erroneous finding of “dramatic increases in telephone subscribership in Puerto Rico” that guided the Commission’s recent decision against establishing an insular support mechanism.¹³ PR Wireless, PRTC, and others have presented the Commission with overwhelming evidence that the Commission’s finding was not supported by the facts. As noted in PRTC’s Petition for Reconsideration,¹⁴ it is misleading to speak of an increase from 73.8 percent in 2005 to 91.9

¹⁰ See Joint Comments at 7.

¹¹ See *Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, ¶¶ 110-112 (1997) (“*Universal Service Order*”).

¹² See Joint Comments at 9.

¹³ *High-Cost Universal Service Support, Federal-State Joint Board on Universal Service, Lifeline and Link-Up*, WC Docket No. 05-337, CC Docket No. 96-45, WC Docket No. 03-109, Order and Notice of Proposed Rulemaking, FCC 10-57 (rel. Apr. 16, 2010) (“*Order*”).

¹⁴ *Comment Sought on the Puerto Rico Telephone Company, Inc. Petition for Reconsideration of the Commission’s Universal Service High-Cost Universal Service High-Cost Insular Support Order*, WC Docket No. 05-337, DA 10-910 (WCB rel. May 21, 2010) (“*Public Notice*”).

percent in 2008, because the U.S. Census questionnaire was updated in 2008¹⁵ to include consideration of cell phones.¹⁶ In 2007, only approximately 80 percent of households had telephone service.¹⁷ The “jump” to 91.9 percent in a single year was due largely, if not entirely, to the change in survey methodology. Thus, the Commission did not merely make an apples-to-oranges comparison, it added oranges to apples and concluded that the result was an increase in apples. Meanwhile, wireless subscribership on the island lags significantly at 64.3 percent¹⁸ compared to 90 percent on the U.S. mainland (based on 2008 figures) – another fact ignored in the Commission’s order.

Moreover, PR Wireless has previously explained that the Commission’s proposal to establish a supplemental Link-Up discount that only applies to “special construction charges” would not be adequate to address the demographic issues that have thus far hindered the growth of telephone penetration.¹⁹ Quite simply, a supplemental discount that is limited to the service connection charge does nothing to assist consumers who cannot afford the monthly bill after the currently available Lifeline discounts are applied.

PR Wireless agrees with PRTC that the high-cost model proposed in the *NOI and NPRM* does not address the unique challenges of insular areas.²⁰ As PR Wireless explained above,

¹⁵ See 2008 Puerto Rico Community Survey, accessed at <http://www.census.gov/acs/www/Downloads/Special/PRico/QuestE08PR.pdf>.

¹⁶ Puerto Rico Tel. Co. Petition for Reconsideration in WC Docket No. 05-337, CC Docket No. 96-45, and WC Docket No. 03-109 (April 27, 2010) at 13.

¹⁷ 2007 American Community Survey 1-Year Estimates, Puerto Rico Community Survey, Data Set C25043 (Tenure by Telephone Service Available).

¹⁸ Puerto Rico Telecommunications Regulatory Board, “Total de Líneas Inalámbricas por cada 100 Habitantes en Puerto Rico Años 2000 – Marzo 2010,” accessed at <http://www.jrtp.gobierno.pr/documentos/Estadisticas/2009/informe%202009.asp>.

¹⁹ PR Wireless Comments in WC Docket No. 03-109 at 5 (filed June 7, 2010).

²⁰ See PRTC Comments at 5-7.

poverty and unemployment in Puerto Rico are extraordinarily high, while income levels are exceptionally low.²¹ These factors contribute to the extremely low adoption rate of voice and broadband services, where consumers can barely afford the basic necessities. This situation can only be addressed through a separate mechanism that recognizes the unique situation faced by Puerto Rico and other insular areas.

B. Investment in Broadband Infrastructure Must Include Support for Core Networks

PR Wireless previously mentioned that the geographic, economic and social conditions in insular areas have led to extreme infrastructure costs and low broadband penetration rates.²² As noted by PRTC, the resulting lack of telecommunications infrastructure has left Puerto Rico with a broadband deployment rate of only 24%, compared to 60% in the rest of the United States.²³

PR Wireless believes that high-cost support for the maintenance of existing networks is the only immediate way to spur investment in broadband infrastructure. This support would provide a critical portion of the maintenance budget for ETCs like PR Wireless, allowing them to preserve their existing wireless networks and simultaneously freeing up funds to invest in broadband infrastructure. With such pervasive poverty in Puerto Rico, the adoption of broadband is secondary to that of voice communications. Excluding support for maintenance of existing networks would become a disincentive to upgrading and sustaining existing infrastructure for wireless networks. While broadband deployment will assist with the economic growth of Puerto Rico, it is clear that the economy cannot thrive without increased high-cost funding to support both existing networks and the deployment of broadband facilities.

²¹ *Id.*

²² Joint Comments at 13.

²³ PRTC Comments at 5.

C. The Commission Should Adopt an Alternative USF High-Cost Reform Approach for Insular Areas by Removing the Cap on High-Cost Support

As previously discussed by PR Wireless, the Commission placed a cap on the total annual high-cost universal service support for Competitive Eligible Telecommunications Carriers (“CETCs”) at the level of support that they were eligible to receive in each state and territory during March 2008 (“Cap”).²⁴ It is important to emphasize that CETCs throughout the nation have been, and continue to be, harmed from the CETC Cap, because it has unduly interfered with their ability to deploy infrastructure and deliver voice and broadband service. So long as the CETC cap remains in place, the harm it is causing insular areas will only worsen and increase the digital divide.

In order to reverse the economic collision course in Puerto Rico, the Commission should ensure that entities capable of providing enhanced voice and broadband services have the requisite capital to do so. High-cost USF support is the primary mechanism to achieve that result; providing an exemption for wireless carriers serving insular areas so that high-cost support can be restored to pre-March 2008 CETC cap levels will significantly bolster the economy in Puerto Rico and the other insular areas. Consumers residing in the notoriously underserved insular areas will enjoy improved access to enhanced voice and broadband services, and the investment in telecommunications infrastructure will serve as an immediate source of employment.

Several commenters with specific interests in one or more U.S. Territory detailed the unique challenges inherent in serving the insular areas and spoke in unison in advocating that

²⁴ See *High Cost Universal Support, Federal-State Joint Board on Universal Service*, WC Docket 05-337, CC Docket 95-46, 20 FCC Rcd 8834, ¶ 1(2008) (“*Interim Cap Order*”).

USF support not be reduced in the insular areas. GTA Telecom, LLC (“GTA”) contended that “[t]he FCC should... ensure that the current High-Cost funding levels are maintained throughout the development and implementation of mechanisms for transitioning the funds to more directly support broadband.”²⁵ Similarly, the Public Services Commission of the U.S. Virgin Islands (“USVI PSC”) stated that it is “...greatly concerned that the approach that the FCC has chosen will undermine efforts by the USVI PSC and the carriers in the Territory to bring about greater access to infrastructure capable of both broadband and voice grade service... Decreasing the available funding even further will make matter worse if the proposed transition away from high-cost support is implemented.”²⁶ PRTC added that “[a]ny 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.”²⁷

As detailed above, the geographic and economic challenges in insular areas are considerably different and far more significant than those faced by in the U.S. mainland. In fact, these challenges are more akin to the geographic and economic challenges faced by residents and businesses of Tribal Lands, where the Commission has already created a specific support mechanism. Thus, PR Wireless reiterates its belief that the Commission should provide an exemption for wireless carriers serving insular areas so that high-cost support can be restored to pre-March 2008 levels.

²⁵ GTA Comments, at 4 (noting that, in 2009, USF revenues accounted for 18% of GTA’s overall regulated revenues and that GTA plans to invest \$20-24 million in further upgrades over the next five years, but that any reduction in the amount of High-Cost USF would be harmful to consumers, because GTA would need to raise rates to preserve cash flows). *Id.* at 4-5.

²⁶ USVI PSC Comments, at 1-2.

²⁷ PRTC Comments at 15.

III. CONCLUSION

PR Wireless is encouraged that the Commission has invited submissions on the "unique circumstances in insular areas that would necessitate a different approach",²⁸ but is cognizant that the longstanding failure to address inadequate telecommunications can have severe consequences.²⁹ As Senator Rockefeller recently reminded the Commission, "[the law requires that]... everyone in the country, no matter who they are or where they live, [have] access to modern communication services."³⁰ In order to fulfill its legal obligation, the Commission should take into consideration all of the particular and special situations faced in the insular areas, as presented by PR Wireless and other commenters in this proceeding, and adopt USF funding policies that would aid in overcoming those obstacles.

PR Wireless sincerely hopes that the Commission will finally address the needs of insular areas by carving out an exemption for wireless CETCs serving insular areas to receive pre-March 2008 levels of high-cost support. In addition, the Commission should reconsider its decision against establishing an insular support mechanism to address subscribership problems in Puerto Rico and other insular areas. Without increased high-cost support, Puerto Rico will only fall further behind and may never achieve the level of access to wireless and broadband service that is available in urban areas on the mainland U.S.

²⁸ *NOI and NPRM* at ¶¶13 and 50.

²⁹ See Letter from Senator John D. Rockefeller IV, Chairman, Committee on Commerce, Science and Transportation, to The Honorable Julius Genachowski, Chairman, Federal Communications Commission (dated Aug. 2, 2010).

³⁰ *Id.*

For all of the reasons set forth above, PR Wireless requests that the Commission adopt the proposal described herein for all insular areas.

Respectfully submitted,

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