

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
Universal Service Reform) WT Docket No. 10-208
)
Mobility Fund)

REPLY COMMENTS OF PR WIRELESS, INC.

PR Wireless, Inc. (“PR Wireless”, “the Company”), by its undersigned counsel and pursuant to the Commission’s Notice of Proposed Rulemaking in the above-captioned proceeding,¹ hereby submits its reply to comments on the Commission’s proposal to establish a Mobility Fund to provide targeted, one-time support for the build-out of broadband infrastructure in unserved areas.

Numerous commenters agreed that a limited, one-time Mobility Fund support mechanism in the amount of \$100 million to \$300 million would not be effective in furthering the Commission’s goals for using its universal service programs to stimulate mobile wireless broadband deployment. Several commenters pointed out the inadequacy of the proposed method of prioritizing these limited subsidies, and some emphasized the need to create a separate mechanism to address tribal lands because of the degree to which those areas lag the rest of the country in broadband access. PR Wireless agrees with those commenters and strongly believes

¹ *Universal Service, Mobility Fund*, WT Docket No. 10-208, Notice of Proposed Rulemaking, FCC 10-182, 2010 WL 4059849 (rel. Oct. 14, 2010) (“*Mobility Fund Notice*” or “*NPRM*”). Summaries of the *Notice* were subsequently published in the Federal Register. *See* 75 Fed. Reg. 67060 (Nov. 1, 2010); 75 Fed. Reg. 69374 (Nov. 12, 2010).

that any special carve-out for tribal areas must also include insular areas, such as Puerto Rico, which face the same challenges.

I. ANY MOBILITY FUND SHOULD TARGET INSULAR AREAS THAT LAG THE FARTHEST BEHIND IN BROADBAND AVAILABILITY

Several commenters discussed the lack of access to 3G service in tribal areas compared to the rest of the nation, and argued that this disparity warrants a carve-out or “separate track” for tribal areas under any Mobility Fund mechanism.² PR Wireless agrees, and urges the Commission to structure any such carve-out so that it covers insular areas, including Puerto Rico.

In Puerto Rico, access to broadband service lags behind the rest of the country to a similar extent as in tribal areas. In the National Broadband Plan, the Commission noted that available data suggest that less than 10% of residents of tribal lands have broadband service available.³ Available data suggest that broadband service lags even further in Puerto Rico. Based on the Commission’s latest Internet Access Status Report, only 35% of households in Puerto Rico have Internet access, and of those connections, 95.3% have speeds of at least 200 kbps in at least one direction.⁴ Of course, this speed does not meet the Broadband Plan threshold of 1 Mbps upstream and 4 Mbps downstream. According to the recent SpeedMatters study released by the Communications Workers of America, only 9% of Puerto Rico residents with Internet access can access that service at broadband speeds – that is, at least 4 Mbps downstream –

² See, e.g., Greenlining Institute Comments at 5-6; Commnet Wireless, LLC (“Commnet”) Comments at 6-8; Native Public Media and the National Congress of American Indians (“NPM-NCIA”) Comments at 7; Gila River Telecommunications, Inc. (“Gila River”) Comments at 7-9; Alaska Communications Systems (“ACS”) Comments at 2-4.

³ National Broadband Plan at 152.

⁴ Internet Access Services: Status as of December 31, 2009 (Indust. Analysis Div. Wireline Comp. Bur., December 2010) at Tables 16, 20.

compared to roughly half of residential subscribers in the U.S. overall.⁵ Together with the Commission's 35% figure for Internet access at 200 kbps and up, this suggests a broadband penetration figure of roughly *three percent* in Puerto Rico. Among those with Internet connections, average Internet speeds across Puerto Rico were measured at around 900 kbps, compared to approximately 3.0 Mbps in the U.S. as a whole.⁶ The only slower average Internet speed was reported in the U.S. Virgin Islands, another insular U.S. territory.⁷

As with the proposed tribal carve-outs, problems with lack of access to broadband in insular areas must be addressed through special provisions placing a high priority on these areas. For example, some commenters recommended that a certain percentage of the Mobility Fund support be made available only to carriers that primarily serve tribal areas and commit to marketing their service to Native Americans.⁸ Another commenter suggested two steps: (1) identify which 3G unserved areas are on or adjacent to tribal lands, and allocate a double portion of funding to such areas; and (2) identify tribal areas with only a single 3G provider, and make available Mobility Fund "matching funds" to that carrier "conditioned on the funds being used to increase its 3G capacity, and upon the carrier matching, dollar for dollar from some other source, the funds issuing from the Mobility Fund."⁹

Puerto Rico and other insular areas face extremely low telephone and Internet service penetration rates, similar to tribal lands. Therefore, if the Commission establishes a Mobility

⁵ Speed Matters: Affordable High-Speed Internet for America (Nov. 2010) at 47. The study is available online at <http://www.speedmatters.org/content/resources/>.

⁶ *Id.*

⁷ *Id.* at 55.

⁸ See NPM-NCAI Comments at 7 (one-third); Gila River Comments at 7 (20%); ACS Comments (unspecified percentage).

⁹ Commnet Comments at 7.

Fund, PR Wireless urges the Commission to include insular areas within any targeted carve-out or enhanced mechanism along with tribal areas.

II. FUNDING LEVELS SHOULD BE HIGHER, AND MADE AVAILABLE FOR BROADER USES THAN JUST CAPITAL CONSTRUCTION

A number of commenters asserted that the Commission would need to commit more than \$100 to \$300 million to the proposed Mobility Fund. Rural Cellular Association (“RCA”), for example, observes that the proposed level of funding “is wholly insufficient to have a meaningful impact on the current mobility gap.”¹⁰ RCA estimates that \$100 million in Fund support “would only be sufficient to build approximately 250-400 new cell sites.”¹¹ In high-cost areas, that number is optimistic. The Indiana URC agrees with this assessment, concluding that “the FCC’s proposed funding of an upper limit of \$300 million does not provide sufficient funds necessary for a successful Mobility Fund trial. The FCC should seriously consider the need for additional funding.”¹²

PR Wireless disagrees with Verizon’s characterization of the Commission’s proposed level of funding as “sensible,”¹³ as well as its contention that “the Commission cannot spend resources that it does not have, and \$300 million represents a significant portion of the amount of USF support freed up as a result of the *Corr [Wireless] Order* implementing merger conditions

¹⁰ RCA Comments at 9. *See* AT&T Inc. (“AT&T”) Comments at 3 (footnote omitted) (pointing out that the Fund is “by no means [a] sufficient . . . first step to close the Commission-recognized ‘mobility gap.’”); New EA, d/b/a Flow Mobile (“Flow Mobile”) Comments at 6; Rural Telecommunications Group, Inc. (“RTG”) Comments at 2-3; T-Mobile USA, Inc., (“T-Mobile”) Comments at 5 (explaining that the “proposed funding amount is simply too small to make deployment of mobile broadband services economically attractive in some areas. . . . [T]he Commission has estimated the total ‘investment gap’ for providing wireless broadband to the unserved population of the United States at \$12.9 billion.”); USA Coalition Comments at 20.

¹¹ RCA Comments at 9.

¹² Indiana URC Comments at 6-7. *See* CTIA Comments at 11(emphasis in original) (arguing that the small level of support, and the one-time nature of the proposed Fund, “would render the fund inadequate to the task of ensuring the availability of mobile services to *all* Americans”).

¹³ Verizon Comments at 4.

to phase out universal service support to Verizon Wireless and Sprint.”¹⁴ Verizon’s assessment is disingenuous. As the Ohio PUC points out, the Commission “proposes to use only \$100-\$300 million of the [Sprint and Verizon] surrendered support for the Mobility Fund. This range of proposed support represents only 3.8% to 11.3% of the total support which is projected to be surrendered over the five year period.”¹⁵ Given that the phased-down funding was originally intended for mobile wireless networks, it should logically follow that the bulk of the support is used for broadband programs focusing on mobility.

In addition, several parties argued that the Commission’s proposal should provide support for ongoing operational and maintenance expenses, not just capital expenditures.¹⁶ As the Independent Telephone and Telecommunications Alliance (“ITTA”) pointed out:

[T]he Commission should not perpetuate presumptions that capital expenditures alone are sufficient to bring broadband to rural America, either by wired or mobile sources. Rather, the presumption should be that, in areas where a business case for broadband deployment does not exist, on-going support will be necessary to maintain networks, and that presumption should be manifested as part of the process by which high-cost support is distributed.¹⁷

The California PUC noted “that the need for on-going operating support may be greater than the FCC envisions[,]”¹⁸ and T-Mobile explained that both up-front funding and ongoing support are necessary “to sustain the viability of broadband service and ensure that customers in those areas have access to advanced communications and information services” that are reasonably

¹⁴ *Id.*

¹⁵ Ohio Public Utilities Commission (“Ohio PUC”) Comments at 4 (footnote omitted).

¹⁶ *See, e.g.*; U.S. Cellular Comments at 15; ITTA Comments at 3; California PUC Comments at 8; Alaska Telephone Association (“ATA”) Comments at 5.

¹⁷ ITTA Comments at 3.

¹⁸ California PUC Comments at 8. *See* ATA Comments at 5 (arguing that “[a] one-time grant of support will not provide sustainable telecommunications operations in high-cost areas”).

comparable to those services provided in urban areas.¹⁹ T-Mobile asserted that the Commission itself “has recognized [that], of the billions of dollars required to fund a wireless network covering all unserved areas, the bulk of the cost will be incurred in ongoing operational expenses.”²⁰

As a CETC’s network matures, it faces greater and greater costs in operating and maintaining a network that was constructed, in part, using high-cost support. A one-time infusion of subsidies for capital expenditures would only leave stranded investments as the CETC is left without an ongoing source of support to operate and maintain the newly constructed facilities. PR Wireless submits that it would be a mistake to structure the Mobility Fund as a one-time payment of support intended for capital expenditures only. For this reason, PR Wireless has previously advocated an approach that would permit eligible wireless carriers to invest high-cost support in broadband infrastructure that also compliments the maintenance and support of existing networks.²¹

III. CONCLUSION

PR Wireless believes that the Mobility Fund, as proposed, is grossly inadequate to address the severe lag in broadband availability in Puerto Rico and other insular areas compared to the United States as a whole. Therefore, PR Wireless agrees with commenters arguing in

¹⁹ T-Mobile Comments at 4.

²⁰ *Id.* (footnote omitted) (citing *Connect America Fund, A National Broadband Plan for Our Future, High-Cost Universal Service Support*, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 05-337, Notice of Inquiry and Notice of Proposed Rulemaking, 25 FCC Rcd 6657, 6809 (2010) (“*CAF NOI and NPRM*”) (App. C, Omnibus Broadband Initiative, The Broadband Availability Gap) (presenting a cost breakdown for a wireless network over 20 years that shows that 67.4 percent of total costs are attributable to ongoing costs)). *See* CTIA Comments at 6 (footnote omitted) (indicating that “the Commission staff’s own analysis has shown that wireless providers typically experience a significant proportion of total costs as ongoing operating expenses”).

²¹ *See* Joint Comments of AST Telecom, LLC d/b/a BlueSky Communications, Choice Communications, LLC, and PR Wireless, Inc. (“Joint Comments”) at 13-14.

favor of a set-aside within any Mobility Fund it creates, to provide higher levels of support in areas that lag the furthest behind the U.S. as a whole in broadband availability. PR Wireless urges the Commission to ensure that any tribal carve-out or “separate track” covers insular areas, including Puerto Rico, in addition to tribal areas. In addition, PR Wireless agrees with the numerous commenters who argue that \$100 million - \$300 million is grossly insufficient and that recipients must be permitted to use support not only for capital expenditures, but also for operating and maintenance expenses.

Respectfully submitted,

PR WIRELESS, INC.



David A. LaFuria
Steven Chernoff
Their Counsel

LUKAS, NACE, GUTIERREZ & SACHS, LLP
8300 Greensboro Drive, Suite 1200
McLean, Virginia 22102
(703) 584-8678
dlafuria@fcclaw.com
schernoff@fcclaw.com

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