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

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
	)	DA 13-162
	)	

COMMENTS OF VIRGIN ISLANDS TELEPHONE CORPORATION D/B/A INNOVATIVE TELEPHONE REGARDING CONNECT AMERICA PHASE II SUPPORT FOR PRICE CAP AREAS OUTSIDE OF THE CONTIGUOUS UNITED STATES

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SUMMARY

Virgin Islands Telephone Corporation ("Vitelco") d/b/a Innovative Telephone, is the incumbent local exchange carrier serving the territory of the United States Virgin Islands ("USVI"). Vitelco faces challenges in deploying broadband to its service territory that are significantly more difficult than those faced by the large mainland price-cap carriers upon whose experience the Connect America Cost Model ("CACM") is based. Notwithstanding these challenges, Vitelco has committed to its territorial regulatory agency that it will make (and it has already begun) substantial investments over the next several years to upgrade and extend its facilities. However, those commitments were made in reliance on continued access to USF support at then-operative levels. The CACM, however, would eviscerate current USF support to Vitelco because the model lacks sufficient data and parameters to model USVI costs accurately.. Applying the CACM to Vitelco would seriously jeopardize its ability to carry out its plans to provide broadband services to USVI residents and vitiate its ability to build on the progress it has already made.

In the *USF/ICC Transformation Order*, the Commission recognized that price cap carriers serving territories outside the contiguous United States face conditions that may result in cost characteristics that differ substantially from those of mainland price cap LECs. In fact, they do: the CACM fails in various fundamental ways to capture both the cost challenges faced by non-contiguous carriers generally and those faced by Vitelco in particular.

In theory, it might be possible to adjust the CACM to model more precisely the costs Vitelco faces and to calculate an appropriate level of USF support based on such a model. In practice, such a model would require not only incorporating the significant ways in which non-contiguous carriers' costs differ from those of mainland carriers, but also to reflect the ways in

which non-contiguous carriers' costs differ from *each other*. This would involve a commitment of time and resources that would, at least for now, outweigh the marginal gain of such an approach over simply freezing existing cost support for Vitelco and other non-contiguous carriers. Waiting for such an adjustment would also delay the provision of support to mainland carriers. Freezing support for non-contiguous carriers, on the other hand, would not materially affect support for mainland carriers. Thus, the only sensible path for the Bureau to take at this time is to freeze support to non-contiguous carriers at current levels, at least for those non-contiguous carriers that elect such a freeze.

Provided that its support is frozen at current levels, Vitelco is comfortable with conditioning non-contiguous carriers' acceptance of such support on a commitment to achieve an 85 percent penetration for 4/1 Mbps service by the end of the third year, and 100 percent by the end of the fifth year. However, given the uncertain and continuing nature of the challenges non-contiguous carriers face, the Commission should make clear that it will grant waivers for non-contiguous carriers who can show inability, to meet the 85 or 100 percent standard given available funding, despite good faith efforts and demonstrated progress toward that objective. Additionally, given the challenges and uncertainties facing insular carriers, Vitelco submits that it is inappropriate at this time to set specific milestones for 6/1.5 Mbps service in insular service areas.

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Virgin Islands Telephone Corporation ("Vitelco") d/b/a Innovative Telephone, by its undersigned counsel, respectfully submits the following comments in response to the Public Notice[1] in the above-captioned docket seeking comments on issues relating to Connect America Phase II support for price cap carriers serving areas outside of the contiguous United States.

I. INTRODUCTION

Vitelco is the incumbent local exchange carrier serving the territory of the United States Virgin Islands ("USVI"). In 2005, Vitelco served approximately 69,925 residential and business access lines. As of May 31, 2012, Vitelco served 49,241 residential and business access lines, a decline of almost 30 percent over seven years. Vitelco serves customers principally on the islands of St. Croix, St. John, and St. Thomas, as well as several minor outlying islands. Vitelco is regulated by this Commission as a price cap incumbent LEC.

As discussed in various comments and submissions previously filed in the above-captioned docket, Vitelco faces a number of challenges in deploying broadband to its service

[1] Public Notice, "Wireline Competition Bureau Seeks Comment on Connect America Phase II Support for Price Cap Areas Outside of the Contiguous United States," DA 13-162 (released February 8, 2013).

territory, challenges that are significantly more difficult than those faced by the large mainland price-cap carriers upon whose experience the Connect America Cost Model ("CACM") is based. Notwithstanding these challenges, Vitelco has committed to its territorial regulatory agency that it will make (and it has already begun) substantial investments over the next several years to upgrade and extend its facilities.[2] However, those commitments were made in reliance on continued access to USF support at then-operative levels – and prior to the development of the CACM which, as detailed below, would eviscerate current USF support to Vitelco if applied to Vitelco as is. Applying the CACM to Vitelco would seriously jeopardize its ability to carry out its plans to provide broadband services to USVI residents and vitiate its ability to build on the progress it has already made. In the *USF/ICC Transformation Order*,[3] the Commission recognized that price cap carriers serving territories outside the contiguous United States (such areas and carriers referred to herein as "non-contiguous" or "insular") face conditions that may result in cost characteristics that differ substantially from those of mainland price cap LECs. It therefore directed the Wireline Competition Bureau to consider the unique circumstances of "price cap carriers serving Alaska, Hawaii, Puerto Rico, the U.S. Virgin Islands and Northern Marianas Islands … when adopting a cost model, and … to consider whether the model ultimately adopted adequately accounts for the costs faced by carriers serving these areas."[4] Further, the Commission instructed the Bureau that if "the model ultimately adopted does not provide sufficient support to any of these areas, the Bureau may maintain existing support levels, as modified in

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[2] *See, e.g.*, Comments of Virgin Islands Telephone Corporation d/b/a Innovative Telephone, WC Docket No. 10-90 *et al.*, filed April 18, 2011; Comments of Virgin Islands Telephone Corporation d/b/a Innovative Telephone, WC Docket No. 10-90 *et al.*, filed July 9, 2012.

[3] *Connect America Fund*, WC Docket No. 10-90, *et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (subsequent history omitted).

[4] *USF/ICC Transformation Order* at para. 193.

this Order, to any affected price cap carrier, without exceeding the overall budget of $1.8 billion per year for price cap areas."[5]

The need for policies that take into account the unique characteristics of the USVI and other non-contiguous US areas is evident from the significant disparity between broadband deployment in these areas and the rest of the United States. It is incumbent on the Bureau to adopt an approach that assures that the residents of the USVI are included in the great transition to broadband. Currently, because of the unique challenges Vitelco faces, the USVI ranks at the bottom in wireline broadband deployment among all US states and territories, and near the bottom even when wireless is included.[6] Vitelco has made great strides in improving the situation: as of June 30, 2011, not a single household in the entirety of the U.S. Virgin Islands had broadband service of download speeds greater than 3 Mbps and upload speeds greater than 768 Kbps.[7] A year later, wireline broadband at these speeds was available to 58.3% of households, but the uptake is still only 22.5% of the homes where these speeds are available, and the USVI still ranks a distant last among the 56 states and territories.[8]

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[5] *Id.*

[6] *See* National Broadband Map, "Rank Analysis" for the all states and territories, available at: http://www.broadbandmap.gov/rank/all/state/percent-population/within-nation/speed-download-greater-than-3mbps-upload-greater-than-0.768mbps/ascending/ (last visited March 7, 2013).

[7] *See* National Broadband Map, "Rank Analysis" for the all states and territories, available at: http://www.broadbandmap.gov/rank/all/state/percent-population/within-nation/speed-download-greater-than-3mbps-upload-greater-than-0.768mbps/ascending/ (when visited July 8, 2012).

[8] *See* National Broadband Map, "Rank Analysis" for the all states and territories, available at: http://www.broadbandmap.gov/rank/all/state/percent-population/within-nation/speed-download-greater-than-3mbps-upload-greater-than-0.768mbps/ascending/ (last visited March 7, 2013). Vitelco emphasizes, however, that its capital improvement program, which is currently in its third year, is designed to make broadband service available in most areas of the USVI within the next several years.

Of course, broadband providers in other insular areas face similar issues in trying to deploy broadband in their respective service areas. This likely explains why, according to the National Broadband Map, three of the four lowest ranked areas in the percentage of households with broadband service of download speeds greater than 3 Mbps and upload speeds greater than 768 Kbps are U.S. territories – the Northern Marianas Islands, American Samoa, and the U.S. Virgin Islands.

The instant *Public Notice* solicits comments on various options for providing Connect America Fund ("CAF") Phase II support to price cap carriers serving areas outside of the contiguous United States, as well as the associated obligations that come with the receipt of such support. The path chosen by the Bureau here is critical. If the Bureau fails to adopt an approach that takes due account of the unique circumstances facing non-contiguous areas in general and the USVI in particular, the continuing deployment of even existing speeds of broadband in the USVI will be cost-prohibitive – not to mention any upgrade to such higher speeds as the 4/1 Mbps and 6/1.5 Mbps targets that the FCC has set. Thus, absent appropriate action by the Bureau, the USVI will continue to be left far back in the wake of broadband progress.

II. THE BUREAU CANNOT SIMPLY USE THE CACM FOR AREAS OUTSIDE THE CONTIGUOUS UNITED STATES GENERALLY, AND FOR VITELCO IN PARTICULAR.

A. Unique Circumstances Substantially Increase the Costs Of Carriers In Non-contiguous Areas In Ways That Don't Affect Providers In Contiguous Areas, and Indeed These Circumstances Vary Significantly Even Between Non-Contiguous Providers.

In previous comments, Vitelco has detailed the unique challenges it faces as the incumbent carrier in the USVI. These challenges both increase Vitelco costs above those faced by mainland carriers, but their unique "fingerprint" mix also differentiates Vitelco from carriers serving other non-contiguous territories.

To recapitulate Vitelco's previous showing for purposes of the present context, Vitelco's challenges – none of which is reflected in the CACM – include:

(i) *higher broadband middle-mile costs.* Vitelco's nearest Internet peering point is in Florida, resulting in substantial additional cost to backhaul traffic to Florida;

(ii) *higher shipping-related costs*: All supplies necessary for creating and maintaining a telecommunications infrastructure must be shipped and stored at considerable expense, and the company must maintain larger inventories of supplies and equipment on-site due to shipping times. Moreover, to reduce repair and provisioning times to acceptable levels, inventories must be maintained on each of the major islands rather than at a centralized location;[9]

(iii) *higher procurement costs* arising from customs duties, excise taxes and procurement restrictions: Here, it is important to note that that the USVI is outside the US Customs Zone and (unlike Alaska, Hawaii and Puerto Rico) is subject to import duties on equipment and supplies to which other carriers modeled by the CACM are not subject. Additionally, because of this complication, many vendors sell to USVI customers through their Latin American channels and not through US channels. This further complicates logistics, increases pricing and makes dealing in the USVI more difficult.

(iv) *higher operational costs associated with USVI topography*: The islands' terrain is rocky and hilly, resulting in added difficulties and cost of deploying facilities. In addition, there is heavy tropical vegetation in sparsely populated inland areas, which makes the use of underground or buried cable expensive;

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[9] In addition, because transporting equipment and personnel among the three main islands is more costly and time-consuming than covering similar distances on land, the company must effectively maintain three separate, smaller networks rather than one.

(v) *higher operational costs associated with the warm tropical climate* of the USVI, which leads to an enhanced need for environmental protection for telecommunications equipment and infrastructure;

(vi) the *frequent tropical storms and severe hurricanes* in the Caribbean, which often cause extensive damage to existing telecommunications infrastructure, resulting in higher costs of repair and maintenance; and

(vii) the *high level of airborne salt* from the ocean, which leads to accelerated corrosion and deterioration of telecommunications equipment and infrastructure.[10]

Compounding these physical obstacles are the serious economic challenges facing the USVI. These include a higher cost of living and greater levels of poverty as compared to the mainland. Thus, the USVI ranks 53d of 56 states and territories in median per capita income[11] and its poverty rate as of June 30, 2012, was nearly 30%.[12]

Of course, similar circumstances undoubtedly affect each of the other non-contiguous areas, but no two will be alike. Shipping distances, climate, topography, even the number of separate islands upon which inventory must be maintained, will vary considerably. Nor will

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[10] *See also Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, ¶¶ 112, 314, 414-415 (1997) (finding that carriers serving insular areas face formidable challenges because "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").

[11] *See* National Broadband Map, "Rank Analysis" for the all states and territories, available at: http://www.broadbandmap.gov/rank/all/state/percent-population/within-nation/demographics-income-median-income/ascending/technology-wireline-any/demographics-income-median-income (last visited March 7, 2013).

[12] *See* National Broadband Map, "Rank Analysis" for the all states and territories, available at: http://www.broadbandmap.gov/rank/all/state/percent-population/within-nation/demographics-income-poverty-rate/ascending/technology-wireline-any/demographics-income-median-income (last visited March 7, 2012).

these lend themselves to a simple averaging in a way that could possibly fold seamlessly into a CACM that was designed with very different parameters.

B. It Would Be Prohibitively Difficult To Modify the CACM To Reflect Non-Contiguous Area Cost Factors Accurately.

1. The Disparity Between the CACM Model and Vitelco's Real World Situation Are So Gross That It Would Be Plainly Irrational To Use the "As Is" CACM To Determine CAF Phase II Support To Vitelco.

While much effort and time has gone into the CACM, it remains a work in progress. As the *Public* Notice states, both a first and second version have been completed, and work on a third version is underway.[13] However, in all its iterations, the CACM fails to match up with Vitelco's costs in a number of respects which singly and cumulatively render the CACM invalid as a model for Vitelco.

First, the CACM assumes that the Internet access point ("IAP") for modeled carriers is at a regional BOC tandem within the same LATA, but this is an incorrect assumption for Vitelco (and other insular carriers). In reality, Vitelco must use a combination of submarine transmission facilities spanning the approximately 1100 miles between the USVI and the US mainland, together with terrestrial facilities on the US mainland, to reach the nearest IAP in Florida, resulting in the incurrence of significant costs that are not incorporated in the CACM.

Second, it strongly appears that there are a number of other deficiencies arising from the failure of the CACM to use USVI-specific data inputs. While the details of the CACM are not entirely transparent, a useful proxy exists for assessing the problem. At the CAF II Model FCC Workshop, held September 13-14, 2012, CostQuest's presentation regarding the CQBAT model highlighted a number of other areas where work-around procedures were required in the absence

[13] *Public Notice* at para. 4.

of data specific to the U.S. Virgin Islands ("USVI"),[14] which reflect at best crude approximations and in no case represent accurate data. These included:

- *Large Business Locations*: Due to a lack of detailed economic census data, 2009 county business pattern estimates by census density from the fifty states were used in lieu of USVI-specific data to estimate the distribution of large businesses to census block density groupings in the USVI. Of course, 48 of the states – 96% by number and far more by area and population – are contiguous and for all the reasons stated above are very different in major relevant respects from the USVI. Indeed, it was these very differences that prompted the Commission to require the Bureau to examine the status of non-contiguous territory providers separately.[15]
- *Small Business Locations*: USVI small business quantities were also estimated using mainland data. CQBAT used the relationship of mainland small business quantities to mainland housing unit density to estimate small business quantities and locations in the USVI, a methodology that uses two mainland measures (small business quantities and housing structure density in census blocks) to apply to the USVI.[16]

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[14] *See* CAF2 Model Overview, September 2012 ("CQBAT Model Presentation: Part 2"), available at CQBAT Model Presentation: Part 2, http://transition.fcc.gov/wcb/tapd/universal_service/caf/CAF2-Part2.pdf, Slide Numbers 74 through 78

[15] CQBAT Model Presentation: Part 2, http://transition.fcc.gov/wcb/tapd/universal_service/caf/CAF2-Part2.pdf, Slide Number 75

[16] CQBAT Model Presentation: Part 2, http://transition.fcc.gov/wcb/tapd/universal_service/caf/CAF2-Part2.pdf, Slide Number 75

- *Multiple Dwelling Structures*: For the USVI, there was no available source for the number of housing units in multiple dwelling structures so CQBAT used a scaling process that was much like the process it used for small business data.[17]
- *Central Office Service Areas*: No central office geography information for the USVI was available from TeleAtlas June 2010 Wirecenter Premium Data, so CQBAT used a process to build service areas using 2009 Census tract boundaries.[18]

While the CACM ultimately developed may differ in various respects from the CQBAT approach, the recent Public Notices announcing the releases of CACM Version 1 and Version 2 did not indicate that these parameters have been updated to USVI-specific information, nor is it clear from the CACM System Updates that these issues have been addressed.

Probably because of these patent modeling problems, as noted previously by Vitelco and other parties,[19] both the CQBAT and the CACM produce results that would, if applied, reduce support to Vitelco and other insular carriers to non-meaningful levels, even as the overall support funding for price cap carriers will nearly double from the current $1.076 billion to $1.8 billion. In the case of Vitelco, the CQBAT results would reduce the Company's annual support from approximately $16 million to about $0.4 million – a reduction of over 97%![20] It would be even

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[17] CQBAT Model Presentation: Part 2http://transition.fcc.gov/wcb/tapd/universal_service/caf/CAF2-Part2.pdf, Slide Number 76

[18] CQBAT Model Presentation: Part 2, http://transition.fcc.gov/wcb/tapd/universal_service/caf/CAF2-Part2.pdf, Slide Number 77

[19] See Comments of Alaska Communications Systems ("ACSWC Docket No. 10-90, filed February 27, 2013, at 11. See also Comments of the Virgin Islands Telephone Corporation D/B/A Innovative Telephone in WC Docket No. 10-90, filed July 9, 2012, at 3 and 4. .

[20] *See* Letter to Marlene H. Dortch, Secretary, Federal Communications Commission, from Thomas J. Navin, Counsel for Puerto Rico Telephone Company, Inc., Re: Request for Connect

worse if the latest CACM version were used: this would reduce Vitelco's support to virtually zero (less than $20,000 annually).[21] For all the reasons stated in these comments, Vitelco is convinced that this reduction would *not* reflect the actual cost to an efficient provider of delivering voice and broadband services to USVI customers, but instead would reflect the use of data inputs and model methodology that simply do not accurately reflect the conditions facing providers in the USVI and other insular areas.[22]

On their face, these reductions in support are counterintuitive given both the increase in support available to price cap carriers and their likely increased obligations under CAF Phase II. After all, if deployment obligations are to be increased, support for insular areas like the USVI, Puerto Rico and Alaska should not at the same time be gutted, but should *increase* since carrier costs will go up accordingly.

America Fund Cost Models, FCC Public Notice in WC Dockets 10-90 and 05-337, DA 11-2026 (Wireline Competition Bureau, Released December 15, 2011), Attachments A and B ("PRTC Cost Study") at Attachment A, p. 5. The CQBAT produced similar results for other insular carriers, e.g., Puerto Rico Telephone Company ("PRTC") support falls from $36.8 million to $1.7 million and Alaska Communications System ("ACS") support falls from $19.6 million to $6.5 million. *Id.*

[21] CACM Version 2 Report, Support Model Rollup, produced with the following report parameters:

Solution Set = SS20130115FFTpBaseline GrnFld; Network Design = TelcoFiber-FTTp5KCACMv2; State = All; CM = CM; Target Benchmark = 80; FCC Portion = 100%; Total Max Funding = $1,800,000,000; Funding Approach = Big Bang; Geographic Level = Company; Mark with Provider = False; Alternative Technology Cutoff = 276; Monthly Support Funding Cap = 1,000,000; and Calculate Benchmark Testing = TRUE.

[22] While the Bureau has observed that the fact that support levels would be reduced under the CACM does not necessarily indicate that the model is inaccurate *Public Notice* at para 9, neither do reduced support levels under the CACM indicate that a carrier's costs are those of an inefficient provider.

2. The Cost and Effort Needed To Adequately Adjust the CACM To Make It Acceptable in Insular Areas Would Far Outweigh the Benefit of Doing So, and So Freezing Support for Insular Carriers Is the Only Sensible Alternative.

These outcomes make it clear that the underlying assumptions of the CACM would have to be examined and corrected if they are to be used as the basis for funding calculations for insular carriers. There are, then, two alternatives before the Bureau, as posited by the Commission and reflected in the *Public Notice*. The first would be to freeze support for insular carriers at existing levels without regard to the CACM calculations. The second would be to make the major modifications to the CACM needed to accurately reflect the differing costs of Vitelco and other insular carriers.[23] While in theory, it might be more precise to bite the bullet and make the needed adjustments to CACM rather than freeze existing support, upon examination it is clear that the cost and effort of making meaningful adjustments to the CACM for this purpose in the short term would far outweigh this marginal increase in precision. Thus, the alternative of freezing support is, at least for now, the only sensible one.

An initial difficulty of adjusting the working version of the CACM is met with at the very threshold. Despite being potentially subject to such anomalous results, Vitelco and other insular carriers have not been privy to most of the model's underlying assumptions, particularly those related to principal cost drivers such as loop lengths, the quantities and size of fiber and copper cable, the number of feet of aerial and buried/underground structure, the quantity of remote terminal and DSLAMs, the type and number of edge routers estimated for the network, and the level of capacity and fill rates assumed, and others. This is despite the Commission's admonition that the "model and all underlying data, formulae, computations, and software associated with the model must be available to all interested parties for review and comment. All underlying data

[23] *USF/ICC Transformation Order*, para. 193.

should be verifiable, engineering assumptions reasonable, and outputs plausible."[24] As has been noted by a number of parties, the transparency required by the Commission has always not been forthcoming.[25] Needless to say, without such transparency, the task of adjusting the model cannot even begin.

Even with the limited visibility that exists today, the basic methodological and data problems identified above fatally compromise the use of the as-is CACM in insular areas. Assuming that the requisite transparency will sooner or later be provided, once interested parties have seen the actual details of the model, they are likely to identify numerous additional components of the CACM that will require revision to achieve the necessary accuracy as related to insular areas. To name only the "known unknowns," if the CACM is to produce accurate results for the USVI it must, as noted above, include components for the costs of undersea transmission facilities and mainland distribution to account for the use of IAPs in the U.S. mainland, and incorporate other inputs as described above specific to the USVI's operating conditions and cost characteristics.

The additional costs and the delay in implementation required to revise the CACM to accurately calculate broadband costs for the USVI will be extensive and likely well beyond the marginal benefits of such modifications as compared to simply freezing support. In particular, the work needed to make these modifications for insular service areas would likely cause substantial delays in completion of the CACM, which would delay its implementation for *all* price cap service areas, not just the insular ones. Moreover, the total household and business locations

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[24] *USF/ICC Transformation Order*, para. 185.

[25] *See* Comments of Alaska Communications Systems ("ACS"), WC Docket No. 10-90, filed February 27, 2013, at 8-10; Comments of Alaska Communications Systems Group, Inc., WC Docket No. 10-90, filed July 9, 2012, at 5-6; Comments of the National Telecommunications Cooperative Association, WC Docket No. 10-90, filed October 11, 2012, at 4; Further Comments of the Small Company Committee of the Louisiana Telecommunications Association, WC Docket No. 10-90, filed August 24, 2011, at 3-4.

evaluated by the model ("modeled customer locations") for the USVI carriers represent less than 0.04% of the total modeled customer locations for all price cap carriers.[26] In addition, today less than 5% of budgeted price cap support funds go to non-contiguous areas in the aggregate. However, an aggregate approach even for these areas alone would not work. Because each non-contiguous area has unique issues (as detailed above) that distinguish it from the other non-contiguous areas, tailoring any cost model to *each* of these areas would be necessary, but this would require more time and expense than would be justified by the incremental public interest benefits.

For illustrative purposes, Vitelco has commissioned, and will submit separately, as soon as possible, a cost study conducted by Parrish, Blessing and Associates, Inc. ("PBA"), which will include an analysis of the effects of a number of the USVI-unique factors discussed above on Vitelco's costs.[27] PBA conducted a similar study for Puerto Rico Telephone Company ("PRTC"), which has already been submitted to the Commission.[28] A review of these studies will confirm

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[26] The term "modeled customer locations" here refers to the number of customer locations actually evaluated for Phase II support by the current CACM, both for the U.S. in total (138,0734,023] and for the USVI (51,265]. Total modeled customer locations are the Total Subscribers figures for all jurisdictions and total USVI customer locations are VI subscribers from a CACM Version 2 Report, Support Model Rollup, produced with the following report parameters: Solution Set = SS20130115FFTpBaseline GrnFld; Network Design = TelcoFiber-FTTp5KCACMv2; State = All; CM = CM; Target Benchmark = 0; FCC Portion = 100%; Total Max Funding = $1,800,000,000; Funding Approach = Big Bang; Geographic Level = State; Mark with Provider = False; Alternative Technology Cutoff = 1,000,000; Monthly Support Funding Cap = 10,000,000; and Calculate Benchmark Testing = TRUE.

[27] Vitelco emphasizes that the cost analysis it is preparing is not intended as a replacement for CACM to be used for the USVI. Rather, it is being prepared in an effort to confirm that the results of the CACM are not an accurate model of network deployment or operating costs for carriers serving the USVI. While a stand-alone study of the USVI is feasible as a one-time matter, the maintenance of a model based on this study to mirror Vitelco's costs on an ongoing basis would be unduly costly, especially in proportion to Vitelco's small subscriber base. Moreover, because of the small numbers involved, the error term is sufficient to further call into question the cost-effectiveness of using this model on an ongoing basis.

[28] *See* PRTC Cost Study cited in footnote 20, above.

beyond doubt that the CACM severely underestimates the costs faced by Vitelco in the real world. Already the study submitted for Puerto Rico shows that the costs of insular areas are not accurately modeled by the CACM, and the USVI model to be submitted is expected to show that even the costs of Vitelco and PRTC are also not readily comparable with each other, thanks to the unique features that affect each.[29]

Finally, the sheer time involved in revising the CACM to take into account the unique circumstances of each non-contiguous area could also unduly delay the deployment of CACM on the mainland. In the *Public Notice*, the Bureau's asked: "In order to move forward more quickly, is there an administratively feasible way to pursue implementation of CACM in those areas where further refinement of the model is not necessary *while developing an adequate approach*

[29] As noted in Attachment A to the PRTC Cost Study, Insular Area Broadband Network Economic Cost Simulation for Puerto Rico, the Puerto Rico-specific model produced the more reasonable and intuitive results that would be expected for the costs of providing broadband services in an insular area. While the initial CQBAT model considered by the Bureau produced results that would reduce PRTC's funding by 95.4% from $36.8 million annually to $1.7 million, the Puerto Rico-specific model produced results that would increase PRTC's annual funding to almost $89 million. PRTC Cost Study, Attachment A, at 5. By using Puerto Rico-specific input prices, network topology requirements, territory-specific road and outside plant structure data, Puerto Rico-specific material and labor costs, and by considering costs unique to Puerto Rico operations, such as undersea cable from Puerto Rico to the Internet peering location in Miami, the Puerto Rico-specific model accounts for the unique costs facing carriers serving an insular area. *Id., passim.* (Note: The methodologies used to identify and develop Puerto Rico-specific parameters are described in detail in Attachment A of the PRTC Cost Study]. Note that even freezing current support levels would not be sufficient to meet the needs identified in the PRTC Study, but it would come much closer to doing so than the far more inadequate CACM numbers. Vitelco fully expects that the cost model specific to the USVI will produce similarly realistic results to demonstrate the unique challenges and costs faced by insular carriers in the provision of broadband services. Because Vitelco based its current capital improvement budget on the existing Phase I support levels, it believes that a continuation of those levels would be sufficient for now, at least, to allow it to continue to implement full broadband coverage for the USVI, even while maintaining its current voice services, even though its cost analysis is likely to show that even greater levels of support could be justified based on forward-looking costs.

in non-contiguous areas?"[30] The answer is "No," unless the Bureau bypasses the CACM for non-contiguous areas in favor of frozen funding.

Regarding this issue, the ABC Coalition ("the Coalition") in its comments to the WCB's Cost Model Virtual Workshop stressed the critical importance for mainland carriers of selecting a model design that will allow CAF Phase II to be implemented as expeditiously as possible. The Coalition noted that: "[t]he interim support available to carriers while the cost model is being prepared is far smaller than the amounts budgeted for CAF Phase II, and many traditional sources of support that carriers rely on are rapidly being phased out. The growing delays in implementing the cost model and disbursing CAF Phase II support result in substantial hardship for carriers and pose a significant obstacle to the deployment of broadband service to rural areas."[31]

Vitelco agrees that resolution of CACM-related issues should be addressed in a timely manner *for mainland carriers* in order to remove the current uncertainty related to future funding levels that effectively hamstrings many carriers in planning and financing the provision of broadband services to their subscribers. However, Vitelco faces the opposite situation: its $16 million in current funding would almost completely disappear under the current version of the CACM, due to the model's lack of adequate data and parameters to reflect conditions in insular service areas. Thus, to move forward expeditiously to implement the CACM for mainland carriers necessitates removing Vitelco from its scope. And the only practicable way to do that on this record is to maintain support for Vitelco at the current frozen levels.

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[30] *Public Notice* at para. 10 (emphasis added).

[31] *See WCB Cost Model Virtual Workshop 2012*, October 1, 2012, comments of Donald K. Stockdale, Jr., available at http://www.fcc.gov/blog/wcb-cost-model-virtual-workshop-2012 (last visited March 8, 2013).

3. The Continuation Of Frozen Support For Insular Carriers Will Not Materially Adversely Affect The Fund Size Or Support To Other Price Cap Carriers.

In the *Public Notice*, the Bureau asks: "How would freezing support for certain carriers impact the Commission's progress in extending broadband-capable infrastructure in the United States?"[32] The answer to this question is straightforward: it would have no material impact. Of the annual $1.8 billion in CAF Phase II funding budgeted for price cap carriers, the frozen support currently received by non-contiguous carriers represents only 4.15% of the total, as broken out in Table 1:

TABLE 1

Total CAF Phase II Fund: $1,800,000,000 (100%)		
Frozen Funding Level	**Dollars**	**% of Total CAF Phase II Funds**
USVI	$16,360.728	0.91%
Puerto Rico	36,053,856	2.00%
Alaska	19,694,208	1.09%
Hawaii	1,968,816	0.11%
Northern Marianas Islands	683,364	0.04%
Total Non-contiguous	$74,760,972	4.15%

Consequently, freezing current levels of support to insular carriers would not significantly affect the fund as budgeted, even before consideration is given to the relatively higher costs and higher Phase II support that a corrected CACM (were it feasible to do so in a timely fashion) inevitably

[32] *Public Notice* at para. 11.

would provide to insular carriers. If the effect of such potential corrections were factored in, the effect would be smaller still.[33]

III. THE SERVICE COMMITMENTS OUTLINED IN THE PUBLIC NOTICE ARE GENERALLY ACCEPTABLE, AS LONG AS ALLOWANCES ARE MADE FOR ADJUSTMENTS IN THE LIGHT OF CIRCUMSTANCES ACTUALLY ENCOUNTERED BY INSULAR CARRIERS.

In paragraphs 13 and 14 of the *Public Notice,* the Bureau asks for comment on the scope and levels of the service commitments that would be required of carriers accepting support in non-contiguous areas. First, in paragraph 13, the Bureau asks "In the event the Bureau determines that support in some or all of the non-contiguous areas should instead be maintained at existing levels, should carriers receiving frozen support to serve those areas make a statewide commitment to accept or reject the frozen support?" Vitelco is not averse to a condition that carriers eligible for frozen support would have to make a statewide commitment to receive it. A statewide commitment would seem to be a reasonable trade-off consistent with the goals of fostering broadband access to the un- and underserved. Those insular carriers that wished to do so could elect to receive CACM-based support instead by making a statewide commitment based on that model.

Paragraph 14 of the Public Notice asks whether and how service level obligations should be adjusted for companies receiving frozen support. The Bureau breaks out two temporal stages of commitment for review:

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[33] In the *Public Notice* (at para. 12), the Bureau notes: "the Commission recently sought comment on several options for utilizing funds remaining from Connect America Phase I, with one possibility being to use some or all of those funds to enlarge the budget for Phase II," and asks "Should some of the unused Phase I monies be made available to maintain existing support levels for carriers in non-contiguous areas if the Commission were to adopt such a rule increasing the $1.8 billion budget?" Clearly, if the Commission decides to deploy such unused Phase I funds to non-contiguous support, that would further reduce, if not eliminate outright, the effect on mainland carriers of freezing support for non-contiguous carriers.

(a) "How many supported locations should be required to have broadband-capable infrastructure that can provide speeds of at least 4 Mbps/1 Mbps, and how should that figure be determined?" and

(b) "Should recipients of frozen support be required to deploy infrastructure that can deliver speeds of at least 6 Mbps/1.5 Mbps to some number of supported locations, and how should that number be set?"

By way of background, the obligations for carriers accepting model-based support are outlined in the *USF/ICC Transformation Order:* "[P]rice cap ETCs that receive model-based CAF support will be required, for the first three years they receive support, to offer broadband at actual speeds of at least 4 Mbps downstream and 1 Mbps upstream, with latency suitable for real-time applications, such as VoIP, and with usage capacity reasonably comparable to that available in comparable offerings in urban areas. By the end of the third year, ETCs must offer at least 4 Mbps/l Mbps broadband service to at least 85 percent of their high-cost locations … covered by the state-level commitment, as described below. By the end of the fifth year, price cap ETCs must offer at least 4 Mbps/l Mbps broadband service to all supported locations, and at least 6 Mbps/l.5 Mbps to a number of supported locations to be specified."[34]

Vitelco generally accepts the premise of targeting a fixed level of 4/1 Mbps rollout to a specified percentage of locations by a specified time, which seems to be a well-accepted metric for purposes of the next stage of broadband deployment. However, the level of penetration for such a milestone should be set conservatively. Indeed the Commission appears to understand that non-contiguous providers, and recipients of frozen support in particular, may not have a realistic chance of meeting the default goals described above. Vitelco's specific challenges – both economic and operational – in meeting this type of milestone are described above. While Vitelco can meet the requirement of offering 4/1 Mbps service in the first three years, it is uncertain,

[34] *USF/ICC Transformation Order* at para. 160.

given the challenges facing it, whether it can realistically achieve 85 percent penetration by the end of the third year and 100 percent by the end of the fifth year, even with frozen funding levels. Accordingly, the Commission should make clear that it will grant waivers for non-contiguous carriers who can show inability, to meet the 85 or 100 percent standard given available funding, despite good faith efforts and demonstrated progress toward that objective.

The second category, 6/1.5 Mbps, is more aspirational in nature. Indeed, the Commission has recognized that it cannot yet set a penetration level for this enhanced-speed service. Given the challenges and uncertainties facing insular carriers, Vitelco submits that it is inappropriate at this time to set specific milestones for this target in insular service areas.

IV. CONCLUSION

For the foregoing reasons, Vitelco urges the Wireline Competition Bureau to conclude that the CACM cannot provide sufficient support to non-contiguous areas without major modifications. Further, it should determine that it would be a wasteful use of resources and cause undue delay to make such modifications. Accordingly, the Bureau should adopt the option provided by the Commission of maintaining Phase I cost support to non-contiguous study areas. The Bureau could also tentatively adopt a statewide commitment to deploy the 4/1 Mbps broadband service in accordance with the *USF/ICC Transformation Order*, but should make clear that waivers will be granted where appropriate, and should further decline to establish commitment levels for 6/1.5 Mbps service for carriers receiving frozen support at this time.

Respectfully submitted,

/electronically signed/

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