



PUBLIC NOTICE

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UNIENDO A PUERTO RICO FUND AND CONNECT USVI FUND NOTICE AND FILING REQUIREMENTS AND OTHER PROCEDURES FOR STAGE 2 FIXED COMPETITIVE PROPOSAL PROCESS

WC Docket Nos. 18-143, 10-90, 14-58

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I. GENERAL INFORMATION

A. Introduction

1. By this Public Notice, the Wireline Competition Bureau (Bureau) establishes procedures for the Uniendo a Puerto Rico Fund and the Connect USVI Fund Stage 2 Competition (PR-USVI Stage 2 Competition, Stage 2 Competition, or the Competition), thus furthering the Commission’s goal of closing

the digital divide for all Americans, including those in non-contiguous areas of our country.¹ The Stage 2 Competition will award up to \$691.2 million annually for 10 years to service providers that commit to offer voice and broadband services to all fixed locations in the Commonwealth of Puerto Rico and the U.S. Virgin Islands (USVI) (together, the “Territories”).² The Bureau will release an application form and instructions, and announce the application deadline in a public notice following Paperwork Reduction Act approval from the Office of Management and Budget.³

B. Background and Relevant Authority

2. In the *PR-USVI Stage 2 Order*, the Commission took major steps to promote the deployment of advanced, hardened networks in the Territories by allocating nearly a billion dollars in federal universal service support to Puerto Rico and the U.S. Virgin Islands. For Stage 2 of the Uniendo a Puerto Rico Fund, the Commission allocated more than \$500 million over ten years in fixed broadband support. The Commission also allocated more than \$180 million over ten years for Stage 2 Connect USVI Fund fixed support.⁴ The Commission directed these funds to facilitate the improvement and expansion of existing fixed networks in the Territories and to provide for the deployment of new broadband networks, so that those living in Puerto Rico and the U.S. Virgin Islands will have access to and benefit from the same high-speed broadband services that residents of the mainland United States enjoy.

3. In the *PR-USVI Stage 2 Order*, the Commission adopted a single-round competitive proposal process to select applicants based on the lowest score for a series of weighted objective criteria.⁵ Similar to the Connect America Fund Phase II auction, the Stage 2 fixed competitive process will award support competitively based on the weighting of price and network performance, including speed, latency, and usage allowance.⁶ The Stage 2 fixed competitive process will also assign scores based on resiliency and redundancy to account for the particular circumstances of the Territories. Under this competitive process, applicants for fixed high-cost support will submit proposals that will be scored using a 270-point scale for price, performance, and network resiliency and redundancy for each geographic area for which it seeks

¹ In the *Uniendo a Puerto Rico Fund and the Connect USVI Fund*, Order, WC Docket Nos. 18-143, 10-90, 14-58, 34 FCC Rcd 9109 (Sept. 30, 2019) (*PR-USVI Stage 2 Order*), the Commission directed the Bureau to conduct a single-round competitive proposal process to award fixed support for voice and broadband services in Puerto Rico and the U.S. Virgin Islands consistent with parameters adopted in the *Order*. *Id.* at 9133-35, paras. 39-41. Among other things, the Commission directed to the Bureau to “release an initial Public Notice . . . that further details the expected timeline and submission process for competitive applications, and that restricts eligible providers from discussing their applications or application strategy with each other during the application process and until awards are announced.” *Id.* at 9133, para. 39. The Commission further directed the Bureau “to create any forms required for the submission of a competitive proposal and obtain the necessary approvals to use the form(s)” and stated that it expected the Bureau to “provide additional information regarding the process for submitting an application” and to set forth “how to use and submit any forms, the certification of ETC status, the Letter of Credit, and the Disaster Preparation and Response Plan.” *Id.* Based on the competitive process, the Bureau will “evaluate applications and select on winner per geographic area consistent with the methodology adopted in [the] *Order*.” *Id.* at para. 41.

² *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9110, 9146-48, paras. 3, 67-70. Virgin Islands Telephone Corp. d/b/a Viya filed a petition for reconsideration of the order. *See* 85 Fed. Reg. 61 (Jan. 2, 2020).

³ Following the availability and announcement of the Stage 2 application form, the Bureau anticipates the application window deadline for all Stage 2 proposals will be approximately 30 days from the release of the public notice.

⁴ In addition to support for fixed voice and telecommunication services, the Commission allocated more than \$250 million to the Uniendo a Puerto Rico Fund and \$4.4 million to the Connect USVI Fund for Stage 2 mobile support over a three-year period. *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9110, para. 3.

⁵ *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9114-15, para. 11.

⁶ *Id.* at 9116, para. 13.

support.⁷ The applicant with the lowest combined overall score for a specific geographic area will win support for that area.⁸

4. Prospective applicants should carefully review the Commission's orders and public notices relating to the Uniendo a Puerto Rico Fund and Connect USVI Fund cited above. Prospective applicants in the Stage 2 Competition should also familiarize themselves with the Commission's general universal service rules, contained in 47 CFR Part 54; the rules for the Connect America Fund specifically, contained in 47 CFR sections 54.302-54.321; and the specific procedures for Stage 2 fixed support established in the *PR-USVI Stage 2 Order* and 47 CFR sections 54.1501-1515. Additionally, prospective applicants may find it helpful to familiarize themselves with the Commission's general competitive bidding rules as well as Commission decisions in proceedings regarding competitive bidding procedures, application requirements, and obligations of Commission licensees and authorization holders.⁹

5. The Commission or Bureau may amend or supplement the information contained in its public notices at any time and will issue public notices to convey any new or supplemental information to applicants. It is the responsibility of all applicants to remain current with all Commission orders and rules and with all public notices pertaining to this competition.

C. Requirements for Participation

6. Those wishing to participate in this competition must:

- Submit an application form for Stage 2 of the Uniendo a Puerto Rico Fund or the Connect USVI Fund (Application Form) via electronic mail prior to the application deadline the Bureau will subsequently announce by public notice; and
- Comply with all provisions outlined in this Public Notice and applicable Commission rules.

D. Public Interest Obligations

7. Each winning applicant that is authorized to receive Stage 2 Fixed support will be required to offer voice and broadband services meeting the relevant performance requirements to fixed locations.¹⁰ It

⁷ *Id.* at 9117, para 14.

⁸ *Id.* at 9114-15, para. 11.

⁹ *See, e.g.*, 47 CFR §§ 1.2101-1.2114; *Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949 (2016) (*Phase II Auction Order and/or FNPRM*); *Connect America Fund Phase II Auction Scheduled for July 24, 2018 Notice and Filing Requirements and Other Procedures for Auction 903.*, Public Notice, 33 FCC Rcd 1428 (2018) (*Auction 903 Procedures Notice*); *Amendment of Part 1 of the Commission's Rules – Competitive Bidding Procedures*, Order on Reconsideration of the Third Report and Order et al., 15 FCC Rcd 15293 (2000), *modified by Amendment of Part 1 of the Commission's Rules – Competitive Bidding Procedures*, Erratum, DA 00-2475 (rel. Nov. 3, 2000); *Amendment of Part 1 of the Commission's Rules – Competitive Bidding Procedures*, Seventh Report and Order, 16 FCC Rcd 17546 (2001); *Amendment of Part 1 of the Commission's Rules – Competitive Bidding Procedures*, Eighth Report and Order, 17 FCC Rcd 2962 (2002); *Amendment of Part 1 of the Commission's Rules – Competitive Bidding Procedures*, Second Order on Reconsideration of the Third Report and Order and Order on Reconsideration of the Fifth Report and Order, 18 FCC Rcd 10180 (2003); *Amendment of Part 1 of the Commission's Rules – Competitive Bidding Procedures*, Second Order on Reconsideration of the Fifth Report and Order, 20 FCC Rcd 1942 (2005).

¹⁰ 47 CFR § 54.1507. A support recipient will be required to offer service to fixed locations, regardless of the technology to be employed. Each support recipient must meet certain public interest obligations as a condition of receiving support. This section is a high-level summary of various rules, orders, and public notices that describe the public interest obligations for recipients generally and Stage 2 Fixed recipients more specifically. Each prospective applicant should review the relevant underlying rules and documents and has the obligation to conduct due diligence prior to the competition to ensure that it will be able to meet the relevant public interest obligations if authorized to

must make these services available to all fixed locations associated with the minimum geographic area for which it is the winning applicant.¹¹

8. In the competition, the Bureau will accept applications for service at one of three performance levels, each with its own minimum download and upload speed and usage allowance, and for either high or low latency service, as shown in the tables below. Winning applicants that become authorized to receive Stage 2 fixed support must deploy broadband service that meets the performance speed, usage and latency requirements associated with their winning applications. The performance requirements for authorized winning applicants are described in more detail below and in the *PR-USVI Stage 2 Order*.¹²

Speed	Monthly Usage Allowance	Assigned Points
≥ 25/3 Mbps	≥ 250 GB or U.S. median, whichever is higher	50
≥100/20 Mbps	≥ 2 TB	25
1 Gbps/500 Mbps	≥ 2 TB	0

Latency	Requirement	Assigned Points
Low	≤ 100 ms	0
High	≤ 750 ms	40

9. Stage 2 support recipients may offer a variety of broadband service offerings as long as they offer at least one standalone voice plan and one service plan that provides broadband at the relevant performance tier and latency requirements, and these plans must be offered at rates that are reasonably comparable to rates offered in urban areas.¹³ For voice service, a support recipient will be required to certify annually that the pricing of its service is no more than the applicable reasonably comparable rate benchmark that the Bureau releases each year.¹⁴ For broadband services, a support recipient will be required to certify that the pricing of a service that meets the required performance tier and latency performance requirements is no more than the applicable reasonably comparable rate benchmark, or that

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receive support. *See supra* Section I.B (Background and Relevant Authority); *infra* Section II.F.7 (Due Diligence Certification).

¹¹ For purposes of this Public Notice, we may also refer to winning applicants (or their designated operating companies) that are authorized as support recipients.

¹² *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9121-24, paras. 21-26, Tables 3 and 4.

¹³ Each recipient of high-cost support must offer voice as a standalone service but may separately bundle its broadband offerings with a voice service. *USF/ICC Transformation Order*, 26 FCC Rcd at 17693, para. 80.

¹⁴ 47 CFR § 54.313(a)(3); *USF/ICC Transformation Order*, 26 FCC Rcd at 17693-94, paras. 81, 84; *see also Wireline Competition Bureau and Office of Economics and Analytics Announce Results of 2020 Urban Rate Survey for Fixed Voice and Broadband Services, Posting of Survey Data and Explanatory Notes, and Required Minimum Usage Allowances for Eligible Telecommunications Carriers*, WC Docket No. 10-90, Public Notice, DA 19-1237 (WCB/OEA Dec. 5, 2019) (*2020 Urban Rate Survey*). Stage 2 support recipients, like all ETCs, have annual reporting and certification obligations. *See, e.g.*, 47 CFR §§ 54.313, 54.314, 54.316.

it is no more than the non-promotional price charged for a comparable fixed wireline broadband service in the state or U.S. territory where the eligible telecommunication carrier (ETC) receives support.¹⁵

10. The Commission has adopted specific service deployment milestones that require each winning applicant authorized to receive Stage 2 support to offer service to all locations associated with the minimum geographic area included in its authorized winning application.¹⁶ Specifically, each support recipient must complete construction and begin commercially offering service to at least 40% of the locations in an area by the end of the third year of support, to at least 60% by the end of the fourth year, at least 80% and by the end of the fifth year, and to 100% by the end of the sixth year.¹⁷ A support recipient is deemed to be commercially offering voice and/or broadband service to a location if it provides service to the location or could provide it within 10 business days upon request.¹⁸

11. Compliance will be determined by geographic area. The Bureau will verify that the support recipient offers the required service to the total number of locations across all winning areas included in the support recipient's authorized application areas (i.e., municipios or island(s)).¹⁹ If a support recipient is authorized to receive support in an area for different performance tier/latency and resiliency/redundancy combinations, it will be required to demonstrate that it is offering service meeting the relevant performance requirements to the required number of locations throughout each geographic area for each such combination within the application.

12. The Commission established a one-year location adjustment process, as described more completely in the *PR-USVI Stage 2 Order* and below.²⁰ In the event a support recipient cannot identify all locations in its winning geographic areas, it will have one year from release of the Stage 2 Competition winning applicants public notice to file evidence of the total number of locations in those blocks, including geolocation data of all the locations it was able to identify.²¹ The support recipient's filing will be subject to review and comment by relevant stakeholders and to audit. If the support recipient demonstrates that the number of actual, on-the-ground locations is lower than the number announced by

¹⁵ 47 CFR § 54.313(a)(3); *December 2014 Connect America Order*, 29 FCC Rcd at 15686-88, paras. 120-23; see also *2020 Urban Rate Survey* at 2-3. The reasonably comparable broadband benchmark varies, depending on the supported service's download and upload bandwidths and usage allowance. A support recipient must offer service at a rate that is no more than the benchmark that corresponds at a minimum with the required speeds and usage for the performance tier and latency combination(s) applicable to its authorized applications.

¹⁶ For Puerto Rico, the total number of locations per geographic area were determined based on the U.S. Census Bureau estimated housing unit estimates as of July 1, 2017, and the 2012 Economic Census. Due to a lack of recent housing units estimate for the U.S. Virgin Islands, the number of locations per geographic area for the U.S. Virgin Islands were determined based on 2017 block-level estimates by Commission staff based on public data from the U.S. Census Bureau and OpenStreetMap. Information regarding the Commission staff housing unit estimates may be found at <https://www.fcc.gov/reports-research/data/staff-block-estimates>. For guidance on location reporting, see *Wireline Competition Bureau Provides Guidance to Carriers Receiving Connect America Fund Support Regarding their Broadband Location Reporting Obligations*, Public Notice, 31 FCC Rcd 12900 (WCB 2016) (*WCB Location Guidance Public Notice*).

¹⁷ 47 CFR § 54.1506; *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9143-44, para. 62.

¹⁸ *WCB Location Guidance Public Notice*, 31 FCC Rcd at 12902.

¹⁹ Winning applicants may use Stage 2 support to deploy service to all locations in the winning areas, it need not be restricted to only high-cost locations announced by the Bureau. *Wireline Competition Bureau Releases List of Reserve Prices and Location Counts for the Uniendo a Puerto Rico and Connect USVI Fund Stage 2 Fixed Support Competitive Proposal Process*, Public Notice, DA 19-1300 (WCB rel. Dec. 19, 2019) (*PR-USVI Stage 2 Reserve Price Notice*). The Notice can be found at <https://www.fcc.gov/document/reserve-prices-and-location-counts-announced-prusvi-fund-stage-2>.

²⁰ *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9144-45, paras. 63-65. See also *Wireline Competition Bureau Seeks Comment on Procedures to Identify and Resolve Location Discrepancies in Eligible Census Blocks Within Winning*

the Bureau on December 19, 2019,²² its location total will be adjusted, and its support will be reduced on a pro rata basis. If a support recipient finds that the number of actual locations has increased, its total support will not be increased, but it will be required to deploy to all actual locations.

13. Additionally, the Commission adopted a voluntary five-year assessment prior to the end of the fifth year of support, as described more completely in the *PR-USVI Stage 2 Order*.²³ This process allows a support recipient that faces unforeseen challenges to request a review of and adjustment to its deployment obligations.²⁴ As directed by the Commission, the Bureau will establish a process no later than the beginning of the fifth year of support to provide recipients an opportunity to request reassessment of their obligations. The support recipient's filing will be subject to review and public comment. If, based on the Bureau's review, an adjustment of deployment obligations or locations is warranted for any winning applicant, the Bureau will announce those changes in a public notice.

14. To monitor each support recipient's compliance with the Stage 2 public interest obligations, the Commission has adopted reporting requirements described in detail in the *PR-USVI Stage 2 Order*.²⁵ These include reporting a list of geocoded locations each year to which the support recipient is offering the required voice and broadband services,²⁶ making a certification when the support recipient has met service milestones,²⁷ and submitting the annual FCC Form 481 report.²⁸ A support recipient that fails to offer service to all locations by a service milestone will be subject to non-compliance measures.²⁹ A support recipient will also be subject to any non-compliance measures that are adopted in conjunction with the uniform methodology applicable to high-cost support recipients for testing and reporting network performance.³⁰

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Bid Areas, WC Docket No. 10-90, Public Notice, 33 FCC Rcd 8620 (2018) (*Auction Locations Adjustment Public Notice*); *Connect America Fund*, WC Docket No. 10-90, Order, DA 19-1165 (WCB Nov. 12, 2019) (*Auction Locations Adjustment Order*).

²¹ *Connect America Fund et al.*, WC Docket No. 10-90 et al., Order and Order on Reconsideration, 33 FCC Rcd 1380, 1388-89, paras. 23-24 (2018). This order directs the Bureau to implement the specific procedures for this filing.

²² *PR-USVI Stage 2 Reserve Price Notice*.

²³ *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9145-46, para. 66.

²⁴ *Id.*.

²⁵ 47 CFR §§ 54.313, 54.314, 54.316, 54.1507; *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9149-52, paras. 72-77.

²⁶ 47 CFR § 54.316(a)(7). Each support recipient is required to submit its locations to the Universal Service Administrative Company's (USAC) High Cost Universal Service Broadband (HUBB) portal and is encouraged to do so on a rolling basis.

²⁷ 47 CFR § 54.316(b)(7).

²⁸ 47 CFR § 54.313.

²⁹ 47 CFR §§ 54.315(c)(4), 54.320; *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9149-50, paras. 73-75; *Connect America Fund et al.*, WC Docket Nos. 10-90, 14-58, 14-192, Report and Order, 29 FCC Rcd 15644, 15694-700, paras. 142-54 (2014) (*December 2014 Connect America Order*).

³⁰ *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9150-52, paras. 74-84. A support recipient will be required to test its networks for compliance and certify and report the results on an annual basis using the framework of the performance measures the Commission adopted. 47 CFR § 54.313(a)(6); see also *Connect America Fund*, WC Docket No. 10-90, Order, 33 FCC Rcd 6509 (WCB/WTB/OET 2018); *Connect America Fund*, WC Docket No. 10-

II. APPLYING TO COMPETE IN THE STAGE 2 COMPETITION

A. Competition Structure

1. Single-Round Competition Format

15. As adopted in the *PR-USVI Stage 2 Order*, the Bureau will conduct the Stage 2 Competition using a single-round, confidential submission, objective scoring process.³¹ The Bureau will consider all eligible Stage 2 applications simultaneously and select applicants based on the lowest score for a series of weighted objective criteria. Applicants must commit to meeting the established minimum performance requirements identified in its application, and the scoring gives greater preference to proposals based on how much they exceed the minimum thresholds. The Bureau establishes the procedures below in order to implement a competition that is efficient, orderly, transparent, and impartial.

2. Eligible Providers

16. The Commission determined that it would allow all providers that had existing fixed network facilities and made broadband service available in Puerto Rico or in the U.S. Virgin Islands, according to June 2018 FCC Form 477 data, to be eligible to participate in their respective territory's competitive process.³² Therefore, for example, a provider that has deployed broadband in Puerto Rico but not the U.S. Virgin Islands according to June 2018 FCC Form 477 data would be eligible to apply for support throughout Puerto Rico, but not in the U.S. Virgin Islands. The Commission determined that it would allow broadband providers that, according to June 2018 FCC Form 477 data, serve only business locations to participate.³³ The Commission also allowed participation by fixed providers who rely on any technology, including satellite, that can meet the Stage 2 service requirements.

3. Eligible Areas and Minimum Geographic Area

17. All areas of the Territories are eligible for support.³⁴ As the Commission determined in the *PR-USVI Stage 2 Order*, the Bureau will use the 78 municipios in Puerto Rico and create two areas in USVI—one that is composed of St. John and St. Thomas islands together and a second of just St. Croix island—as the geographic areas for which applicants may request support in the competition.³⁵

18. As directed by the Commission,³⁶ the Bureau released a public notice listing the number of locations for each geographic area for the Stage 2 Competition in December 2019 based on the most recent census data (Reserve Price Notice).³⁷ The Reserve Price Notice identifies the geographic areas eligible for Stage 2 fixed funding, and lists the municipio or island name, the number of locations in each

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90, Order on Reconsideration, FCC 19-104 (rel. Oct. 31, 2019); *Connect America Fund*, WC Docket No. 10-90, Order on Reconsideration, 34 FCC Rcd 8081 (WCB/WTB/OET 2019).

³¹ See 47 CFR § 54.1501; *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9114, para. 11.

³² 47 CFR § 54.1505(a); See *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9137-39, paras. 46-49. We remind applicants that in addition to meeting this eligibility requirement, we require any winning recipient that is not already an ETC to become an ETC to receive support. See *infra* Sec. II.F.8; see also 47 U.S.C. §§ 254(e), 214(e)(1)(A). An ETC must use its own facilities or a combination of its own facilities and resale of another carrier's services when offering the supported services. 47 U.S.C. § 214(e)(1)(A).

³³ *PR-USVI Fund Notice*, 33 FCC Rcd at 5415, para. 42.

³⁴ 47 CFR § 54.1502; See *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9139-40, para. 50.

³⁵ See *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9140-41, paras. 51-53.

³⁶ See *id.* at 9119, 9143, paras. 18, 61.

³⁷ *PR-USVI Stage 2 Reserve Price Notice*

area, and the reserve price.³⁸

19. Applicants must use the municipio as the minimum geographic area for applying for Stage 2 support in Puerto Rico.³⁹ An applicant may apply for up to 78 geographic areas in an application to compete for Stage 2 fixed support in Puerto Rico. Applicants may apply for up to two geographic areas in an application to compete for Stage 2 support in the USVI.

4. Reserve Prices

20. The Bureau released the reserve prices for the Territories on December 19, 2019.⁴⁰ The Bureau applied the three-step process adopted by the Commission to determine the reserve price for each minimum geographic area.⁴¹ First, we employed the Connect America Model (CAM) to calculate the average cost per location for all locations in a census block. Second, we applied the full amount of the budgets for Puerto Rico and for the U.S. Virgin Islands to create territory-specific high-cost thresholds and to ensure the entire budget is available over the 10-year term. Third, we established a reserve price for each geographic area in proportion to the support amounts calculated for each census block within that area. The reserve prices are \$25.58 per location per month for Puerto Rico and \$23.34 per location per month for USVI.⁴²

5. Competition Delay or Suspension

21. The Bureau may, by announcement, delay or suspend the competition in the event of natural disaster, technical obstacle, network disruption, evidence of an competition security breach or unlawful application activity, administrative or weather necessity, or for any other reason that affects the fair and efficient conduct of the competitive proposal process.⁴³ In such cases, the Bureau will resume the competition starting from the point at which the competition was suspended.

B. Application Procedures

1. Application Overview

22. The Stage 2 Competition will establish the amount of support that each winning applicant will be eligible to receive over the 10-year term.⁴⁴ An applicant can submit an application that includes a proposal for each geographic area for which it seeks support. The price proposed for each geographic area represents the amount of support the applicant is willing to receive per location per month in a geographic area (Proposal Price). The Proposal Price will apply to all locations within a geographic area for which the applicant is seeking support. The Proposal Price must be at a price that is equal to or less than the reserve price established by the Bureau. An applicant may submit a different Proposal Price for each geographic area it proposes to serve in the territory. Each application represents an irrevocable offer to meet the terms of the application if it becomes a winning application. That is, an application indicates that the applicant, if selected, commits to provide service to all locations in the minimum geographic area(s) in which it is chosen as the winning applicant in accordance with its specified performance tier and latency requirements in exchange for Stage 2 support. An authorized winning applicant will receive

³⁸ *Id.*

³⁹ See *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9140-41, paras. 51-52.

⁴⁰ *PR-USVI Stage 2 Reserve Price Notice*.

⁴¹ *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9119-21, paras. 18-20.

⁴² *PR-USVI Stage 2 Reserve Price Notice* at 2.

⁴³ See generally 47 CFR § 1.2104(i).

⁴⁴ *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9136-37, para. 45.

support in amounts corresponding to the Proposal Price for each geographic area in which it is the winning applicant.

23. The application and scoring procedures described herein implement the Commission's decisions on the process for evaluating applications in the Stage 2 Competition.⁴⁵

2. Required Application Form

24. An applicant must timely and properly file an Application Form to be considered a participant in the Stage 2 Competition for support in the Territories. This form can be accessed at the FCC's website.

3. Application Submission

25. An application to participate in the Stage 2 Competition will provide information used to determine whether the applicant has the legal, technical, and financial qualifications to participate in a Commission competition for universal service support.⁴⁶ An entity seeking to participate in the competition must file an application in which it certifies, under penalty of perjury, its qualifications.⁴⁷ Eligibility to participate in the Stage 2 Competition is based on an applicant's submission of required information, Application Form and certifications. A potential applicant must take seriously its duties and responsibilities and carefully determine before filing an application that it is able to meet the public interest obligations associated with Stage 2 support if it ultimately becomes a winning applicant in the competition. An applicant's selection as a winning applicant does not guarantee that the applicant will also be deemed qualified to receive Stage 2 support. Each winning applicant must file all required forms, information and certifications, which the Bureau will review to determine if a winning applicant should be authorized to receive support for its winning applications.

26. An entity seeking to participate in the Stage 2 Competition must file an application electronically via email at ConnectAmerica@fcc.gov by the deadline announced by the Bureau.⁴⁸ Among other things, an applicant must submit operational and financial information demonstrating that it can meet the service requirements associated with the performance tier and latency combination(s) for which it submits an application. Below we describe more fully the information disclosures and certifications required in the application. An applicant is also subject to the Commission's rules prohibiting certain communications, as explained below, beginning on the date the window for filing applications opens.⁴⁹ The Bureau will publish a notice announcing the window opening date and a notice announcing all parties that have successfully filed a Stage 2 Fixed application following the application deadline.

27. An applicant bears full responsibility for submitting an accurate, complete, and timely application. An applicant should consult the Commission's rules to ensure that, in addition to the materials described below, all required information is included in its application. To the extent the information in this Public Notice does not address a potential applicant's specific operating structure, or if the applicant needs additional information or guidance concerning the following disclosure requirements, the applicant should review the *PR-USVI Stage 2 Order*⁵⁰ and the instructions for the Application Form

⁴⁵ *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9115-35, paras. 12-42.

⁴⁶ 47 CFR §§ 1.21001, 54.1501-1515.

⁴⁷ *Id.*

⁴⁸ Applicants will receive an e-mail response confirming receipt and should contact the Bureau if they do not receive such confirmation. Confirmation of receipt does not constitute determination that the application is complete as filed.

⁴⁹ See *infra* Section II.E (Prohibited Communications and Compliance with Antitrust Laws).

⁵⁰ See *PR-USVI Stage 2 Order*, 34 FCC Rcd 9109.

and/or use the contact information provided in this Public Notice to consult with Commission staff to better understand the information it must submit in its application.⁵¹

28. An applicant should note that submitting an application (and any amendments thereto) constitutes a representation by the certifying official that he or she is an authorized representative of the applicant, that he or she has read the form's instructions and certifications, and that the contents of the application, its certifications, and any attachments are true and correct. As more fully explained below, an applicant may not make major modifications to its application after the application filing deadline.⁵² Submitting a false certification to the Commission may result in penalties, including monetary forfeitures, the forfeiture of universal service support, license forfeitures, ineligibility to participate in future auctions, competitions, and/or criminal prosecution.

29. After the initial application filing deadline, Bureau staff will review all timely submitted applications to determine whether each application complies with the application requirements and has provided all required information concerning the applicant's qualifications.⁵³ After this review is complete, Bureau staff may contact an applicant regarding minor application defects that may be corrected.⁵⁴ Staff will establish a deadline for resubmitting modified applications.⁵⁵ After any applications have been resubmitted, Bureau staff will complete review of all qualified applications, and the selected winners will be announced in a public notice.⁵⁶

4. Acceptable Applications

30. To submit an application for support to provide service to an area in the Stage 2 Competition, an applicant must specify the area, a performance tier and latency combination, a price point percentage, which will in turn correspond to an indicated implied support amount for the application, resiliency and redundancy information that explains how the applicant is building in network or path diversity, and a Disaster Preparation and Response Plan. Several requirements, as set forth below, will also apply to application submission and the Bureau will advise applicants if an application does not meet these conditions.

a. One Comprehensive Application per Territory

31. Each applicant should submit a single application for each territory in which it seeks to provide qualifying voice and broadband services. The application should include all proposals for each geographic area within the territory for which the applicant seeks to provide service.⁵⁷ To effectuate this direction from the Commission, the Bureau prohibits commonly controlled applicants from applying for the same geographic areas.⁵⁸

b. Acceptable Application Amounts

32. An applicant may submit the Proposal Price as a price point percentage of the reserve price for a geographic area. The price point percentage submitted in the application may be specified with up to two decimal places (e.g., 98.44%). The option to apply at intermediate price point percentages will

⁵¹ See *infra* Section V.D (Contact Information).

⁵² See 47 CFR § 1.21001(d)(4).

⁵³ See, e.g., *id.* § 1.21001(d)(1).

⁵⁴ See, e.g., *id.* § 1.21001(d)(5).

⁵⁵ *Id.*

⁵⁶ See *infra* Section III.F (Competition Results).

⁵⁷ *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9134, para. 39.

⁵⁸ See *supra* Section II.E.1 (State Selections and Impermissible State Overlaps).

allow an applicant to indicate more precisely the minimum amount of support it will accept for an area, and it reduces the likelihood of ties.

33. An application must specify a percentage that implies a support amount that is one percent or more of an area's reserve price to be acceptable.⁵⁹ One percent represents a sufficiently small fraction of the model-derived reserve price to serve as a minimum acceptable application for applicants with legitimate support needs. An applicant that requires—or receives—no Stage 2 support to build out in an area is free to provide service in the area if it wishes, and furthermore, it can do so without the requirements imposed on Stage 2 support recipients.

5. Modifying the Application Form

34. As indicated above, an entity seeking to participate in the Stage 2 Competition must file an Application Form electronically via electronic mail to the Bureau at ConnectAmerica@fcc.gov. During the filing window, an applicant will be allowed to make any necessary permissible modifications to its Application Form through resubmission via electronic mail to the Bureau. An applicant that has certified and submitted its Application Form before the close of the filing window may continue to make modifications as often as necessary until the application deadline; however, the applicant must re-certify and resubmit its Application Form before the close of the filing window to confirm and effect its latest application changes.

a. Only Minor Modifications Allowed

35. After the Application Form filing deadline, a Stage 2 Competition applicant will be permitted to make only minor changes to its application consistent with the Commission's rules.⁶⁰ An applicant's ability to modify its Application Form will be limited between the closing of the filing window and the release of the public notice announcing the Stage 2 Competition winning applicants. During this period, an applicant will be permitted to modify only the applicant's address, responsible party address, and contact information (e.g., name, address, telephone number, etc.) via resubmission through electronic mail to the Bureau.

36. If an applicant needs to make other permissible minor changes to its Application Form, or changes to maintain the accuracy and completeness of its application pursuant to section 1.65 of the Commission's rules, the applicant must submit a letter briefly summarizing the changes to its Application Form via electronic mail to the Bureau at ConnectAmerica@fcc.gov. The email summarizing the changes must include a subject line referring to the Stage 2 Competition and the name of the applicant, for example, "Re: Changes to the Stage 2 Competition Application of XYZ Corp." Any attachments to the email must be formatted as Adobe® Acrobat® (PDF) or Microsoft® Word documents.

37. An applicant will not be able to modify any other portions of the Application Form, and in particular an applicant may not, after the filing deadline, add a proposal for an area that it did not submit by the filing deadline or subtract a proposal from those areas that it submitted by the filing deadline. Major modifications to an Application Form (e.g., changes in ownership that would constitute an assignment or transfer of control of the applicant, change in applicant's legal classification that results in a change in control, change in the area(s) for which proposals are submitted) will not be permitted after

⁵⁹ See *CAF II Auction Comment Public Notice*, 32 FCC Rcd at 6262, para. 83.

⁶⁰ See 47 CFR § 1.21001(d)(5). Minor amendments include any changes that are not major, such as correcting typographical errors and supplying or correcting information as requested to support the certifications made in the application.

the Application Form filing deadline.⁶¹ If an amendment reporting change is a “major modification,” the major modification will not be accepted and may result in the dismissal of the application.⁶²

a. Duty to Maintain Accuracy and Completeness of the Application Form

38. Pursuant to section 1.65 of the Commission’s rules, each applicant has a continuing obligation to maintain the accuracy and completeness of information furnished in a pending application, including a pending application to participate in the Stage 2 Competition.⁶³ Consistent with the requirements for our spectrum competitions, an applicant for the Stage 2 Competition must furnish additional or corrected information to the Commission within five business days after a significant occurrence, or amend its Application Form no more than five business days after the applicant becomes aware of the need for the amendment.⁶⁴ An applicant is obligated to amend its pending application even if a reported change may result in the dismissal of the application because it is subsequently determined to be a major modification.

39. If, at any time, an applicant needs to make changes in order to maintain the accuracy and completeness of its application pursuant to section 1.65 of the Commission’s rules, it must make the change(s) by resubmitting its application with an email to the Bureau, which must include a re-certification to confirm and effect the change(s).

40. As with filing the Application Form, any amendment(s) to the application and related statements of fact must be certified by an authorized representative of the applicant with authority to bind the applicant. Applicants should note that submission of any such amendment or related statement of fact constitutes a representation by the person certifying that he or she is an authorized representative with such authority and that the contents of the amendment or statement of fact are true and correct.

41. Questions about Application Form amendments should be directed to the Telecommunications Access Policy Division, Wireline Competition Bureau at (202) 418-0660.

C. Application Requirements

1. Disclosure of Agreements

42. An applicant must identify in its application all real parties in interest to any agreements relating to the participation of the applicant in the Stage 2 Competition.⁶⁵ This disclosure requirement applies to any arrangements with parties that are applying to participate in the Stage 2 Competition as

⁶¹ See *id.* § 1.21001(d)(4). While parties can always seek waiver of any Commission rules, the Bureau emphasizes that we would be reluctant to depart from the Commission’s well-established precedent on this issue.

⁶² Any change in control of an applicant—resulting from a merger, for example—will be considered a major modification, and the application will consequently be dismissed. The Bureau reiterates that, even if an applicant’s Application Form is dismissed, the applicant would remain subject to the rule prohibiting certain communications until the applicant authorization notice, which will be established after the competition closes.

⁶³ See 47 CFR § 1.65. For purposes of section 1.65 of the Commission’s rules, an applicant’s Application Form and associated attachments will remain pending until the release of a public notice announcing the winners of the Stage 2 Competition. However, the Bureau reminds Stage 2 Competition applicants that they remain subject to the rule prohibiting certain communications until the authorization of support for winning applications.

⁶⁴ See 47 CFR § 1.65; *cf.* 47 CFR § 1.2105(b)(4). The Bureau reminds each applicant of its duty to continuously maintain the accuracy of information submitted in its Stage 2 Competition application. See, e.g., *Vermont Telephone Company, Inc.*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 14130, 14134, para. 11 (EB 2011).

⁶⁵ *Cf.* 47 CFR § 1.21001(b)(3).

well as parties that are not. An applicant that discloses any such agreement(s) in its application must also provide a brief description of each agreement.⁶⁶

43. An applicant must certify under penalty of perjury in its application that it has disclosed all real parties in interest to any agreements involving the applicant's participation in the Stage 2 Competition.⁶⁷ We require an applicant to certify under penalty of perjury that it has not entered into any explicit or implicit agreements, arrangements, or understandings of any kind related to the support to be sought through the Stage 2 Competition, other than those disclosed in its application.⁶⁸ For purposes of making the required agreement disclosures, if parties agree in principle on all material terms prior to the application filing deadline, each applicant should provide a brief description of, and identify the other party or parties to, the agreement on its respective Application Form, even if the agreement has not been reduced to writing. If an applicant has had discussions, but it has not reached an agreement by the close of the filing deadline, it should not include the matter on its application and may not continue such discussions with any applicants after the close of the filing window.⁶⁹

2. Ownership Disclosure Requirements

44. Each applicant must comply with the ownership disclosure requirements in sections 1.2112(a) and 54.315(a)(1) of the Commission's rules.⁷⁰ Specifically, in completing the application, an applicant must fully disclose information regarding the real party- or parties-in-interest in the applicant and the ownership structure of the applicant, including both direct and indirect ownership interests of 10% or more, as prescribed in section 1.2112(a) of the Commission's rules.⁷¹ Each applicant is responsible for ensuring that information submitted in its application is complete and accurate.

45. In certain circumstances, an applicant may have previously filed an FCC Form 602 ownership disclosure information report or filed a competition application for a previous competition in which ownership information was disclosed. Although an applicant might have filed this information using the same FRN, the applicant should resubmit that information in its Application Form. Each applicant must carefully review any ownership information contained in its Application Form, including any ownership attachments, to confirm that all information supplied on the Application Form is complete and accurate as of the application filing deadline for the Stage 2 Competition. An applicant should note if there are any changes to information recently submitted. Any information that needs to be corrected or updated must be changed in the Application Form.

3. Specific Universal Service Certifications

46. An applicant must certify that it is in compliance with all statutory and regulatory requirements for receiving Stage 2 universal service support.⁷² Alternatively, if expressly allowed by the

⁶⁶ See *CAF II Auction Comment Public Notice*, 32 FCC Red at 6246, para. 25. This requirement is consistent with the agreement disclosure requirements in our spectrum competitions. See 47 CFR § 1.2105(a)(2)(viii).

⁶⁷ Cf. 47 CFR § 1.21001(b)(4).

⁶⁸ See *CAF II Auction Comment Public Notice*, 32 FCC Red at 6246, para. 26.

⁶⁹ See *infra* Section II.H (Prohibited Communications and Compliance with Antitrust Laws).

⁷⁰ See 47 CFR §§ 1.2112(a), 54.1505(d)(1) (requiring the disclosure of ownership information as set forth in 47 CFR § 1.2112(a)).

⁷¹ 47 CFR § 1.2112(a).

⁷² See *id.* § 1.21001(b)(6).

rules specific to a high-cost support mechanism, an applicant may certify that it acknowledges that it must be in compliance with such requirements before being authorized to receive Stage 2 support.⁷³

47. In addition, we require that an applicant must certify that it will make any default payment that may be required and that it is aware that if its application is shown to be defective, the application may be dismissed without further consideration and penalties may apply.

4. Specific Stage 2 Eligibility Requirements and Certifications

a. Operational History and Submission of Financial Statements

48. In the *PR-USVI Stage 2 Order*, the Commission established that an applicant must demonstrate its operational experience and financial qualifications to participate in the Stage 2 Competition.⁷⁴ Therefore, all applicants are required to provide the information described below in this section.

(i) Certification of Service as of June 2018 FCC Form 477 Data

49. An applicant must certify on its Application Form that it has provided voice and/or broadband services since at least the time period required for filing the June 30, 2018 FCC Form 477. An applicant must specify the number of years it has been operating and identify the services it has provided.⁷⁵ An applicant will be deemed to have started providing a service on the date it began commercially offering that service to end users.

50. An applicant must certify that it (or its parent company, if it is a wholly owned subsidiary) has filed FCC Form 477s as required during that time period. And it must identify the FRNs it (or its parent company) used to file the FCC Form 477s for the relevant filing periods.⁷⁶ The relevant FCC Form 477 filing periods include data as of June 30, 2018; December 31, 2018; June 30, 2019; and December 31, 2019. We will use FCC Form 477 data for these periods to validate an applicant's representation on its application.⁷⁷

b. Spectrum Access

51. An applicant that intends to use wireless technologies to meet the relevant Stage 2 public interest obligations must demonstrate that it currently has sufficient access to spectrum – either licensed and unlicensed – for each performance combination it selects in each area.⁷⁸ Specifically, in its application, an applicant must (i) identify the spectrum band(s) it will use for the last mile, backhaul, and

⁷³ *Id.*

⁷⁴ *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9133-35, paras. 39, 41.

⁷⁵ *See, e.g.*, 47 CFR § 54.315(a)(7)(i).

⁷⁶ *Id.* § 54.315(a)(7)(i)(A). If the applicant is making this certification as a wholly owned subsidiary of a parent company, it must also identify the parent company's name in the application. If the applicant is a holding company, it must make this certification on behalf of one of the operating companies that is identified in the application. If the applicant is a consortium or joint venture, it must make this certification on behalf of one of the entities that is part of the consortium or joint venture.

⁷⁷ As provided by the *PR-USVI Stage 2 Order*, providers are eligible to participate in Stage 2 fixed competition if they made service available as of at least June 2018, as verified by a June 2018 FCC Form 477 filed with the Commission. *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9137, para. 46. Consequently, the Bureau will not accept applications from providers that were offering service at the time but had not complied with its FCC Form 477 obligations, thereby limiting the Commission's ability to fully validate an applicant's eligibility and qualifications.

⁷⁸ 47 CFR § 1506.

any other parts of the network;⁷⁹ (ii) describe the total amount of uplink and downlink bandwidth (in megahertz) that it has access to in each spectrum band for the last mile; (iii) describe the authorizations (including leases) it has obtained to operate in the spectrum, if applicable;⁸⁰ and (iv) list the call signs and/or application file numbers associated with its spectrum authorizations, if applicable. An applicant that intends to provide service using satellite technology should describe its expected timing for applying for earth station license(s), and an applicant that intends to obtain microwave license(s) for backhaul should describe its expected timing for applying for microwave license(s) if these licenses have not already been obtained.

52. To the extent that an applicant will use licensed spectrum, it should provide details about how the licensed service area covers its winning application area(s) (e.g., provide a list of geographic areas that the spectrum license covers and describe how those areas relate to the application area(s)). In Appendix A, we identify the spectrum bands that we anticipate could be used for the last mile to meet the performance obligations and indicate whether the spectrum bands are licensed or unlicensed. We would expect that a service provider operating in these bands could, at a minimum, offer service meeting the requirements for the minimum performance tier provided that the service provider is using sufficient bandwidth in the spectrum band(s) and a technology that can operate on these spectrum bands consistent with applicable U.S. and international rules and regulations. We note that Appendix A is a non-exhaustive list of spectrum bands that an applicant could potentially use to meet its performance obligations. An applicant is not precluded from proposing to use a spectrum band that is not included in Appendix A, provided that the applicant can demonstrate that it is reasonably capable of meeting the performance requirements over the entire support term for the selected performance tier and latency combination(s) using that spectrum. We also note that an applicant that selects a spectrum band listed in Appendix A for a particular performance tier and latency combination may not necessarily be deemed eligible for that combination.

53. An applicant must also certify that the description of the spectrum access is accurate and that it will retain such access for at least 10 years after the date on which it is authorized to receive Stage 2 fixed support. Applications will be reviewed to assess the reasonableness of the certification.

c. Financial Qualifications

54. The Commission required all applicants to demonstrate sufficient financial qualifications to participate in the Stage 2 Competition in order to minimize the number of winning applicants that default because they are unable to meet their obligations.⁸¹ The Bureau staff will review and evaluate the financial information provided to assess the reasonableness of the applicant's financial qualifications. In support of its financial showing, an applicant may choose to submit its (or its parent company's) unaudited or audited financial statements from the prior fiscal year, including balance sheets, net income and cash flow, to support its application and financial certification. Staff may request further information from an application if there are questions about its qualifications. An applicant will ultimately be provided a pass or fail rating on its financial qualifications. If an applicant receives a failing score, its application will not be reviewed, and the applicant will be disqualified from competing in the Stage 2 Competition.

⁷⁹ An applicant may propose to use more than one spectrum band to meet its Stage 2 public interest obligations. Each applicant must identify for which part of the network (e.g., last mile, backhaul, etc.) it intends to use each spectrum band.

⁸⁰ If the licensee is a different party than the applicant, the licensee name and the relationship to the applicant should be described. If the applicant is leasing spectrum, the lease number should be provided along with the license information.

⁸¹ *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9134-35, para. 41 & n.157. Applicants should note that even if an applicant is able to demonstrate that it has sufficient financial qualifications to participate in the competition, it may not ultimately be authorized to receive Stage 2 support based on failing to fulfill all program requirements.

(i) Available Funds Certification and Description

55. An applicant must certify in its application that it will have available funds for all project costs that exceed the amount of Stage 2 support to be received for the first two years of its support term.⁸² An applicant must also describe how the required construction will be funded in each territory.⁸³ The description should include the estimated project costs for all facilities that are required to complete the project, including the costs of upgrading, replacing, or otherwise modifying existing facilities to expand coverage or meet performance requirements. The estimated costs must be broken down to indicate the costs associated with each proposed service area and must specify how Stage 2 support and other funds, if applicable, will be used to complete the project. The description must include financial projections demonstrating that the applicant can cover the necessary debt service payments over the life of any loans. The Bureau will treat all the information included with this submission as confidential and will withhold it from routine public inspection.⁸⁴

d. Network Plan, Description of Technology and System Design

56. Each applicant must select in its application the performance tier (speed and usage) and latency combination(s) for which it intends to apply in each area where it seeks support.⁸⁵ For each performance combination, an applicant must indicate the technology or technologies it intends to use to meet the associated requirements.⁸⁶ We also require an applicant to demonstrate its eligibility to apply for the performance tier and latency combination(s) it selects in its application. It is our objective to safeguard consumers from situations where applicants unable to meet the specified service requirements divert support from applicants that can meet the public interest obligations.

57. An applicant must demonstrate that it is technically qualified to meet the relevant Stage 2 public interest obligations in its application areas by submitting technical information to support the operational assertions. An applicant must submit a detailed technology and system design description, including a network diagram that must be certified by a professional engineer.⁸⁷ The professional engineer must certify that the network can deliver, to all locations in each geographic area, voice and broadband service that meets the requisite performance requirements.⁸⁸

58. *Initial Overview.* All applicants must submit with their application an overview of its intended technology and system design for each area in its application. The overview must describe at a high level how the applicant will meet its Stage 2 public interest obligations for the relevant performance tier and latency combination(s) using Stage 2 support (e.g., building a new network or expanding an existing network, deploying new technology or existing technology). This overview should avoid highly technical terminology or jargon unless such language is integral to the understanding of the project. The overview will be made publicly available.

⁸² 47 CFR § 54.315(b)(2)(v); *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9134-35, para. 41 & n.157.

⁸³ 47 CFR § 54.1005(b)(2)(vi); *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9134-35, para. 41 & n.157.

⁸⁴ The Bureau will also treat applicants that submit this information as having made a request to treat this information as confidential trade secrets and/or commercial information. *See* 47 CFR § 0.459(a)(4). If a request for public inspection under section 0.461 is made, however, the applicant will be notified and will be required to justify confidential treatment of its request if the applicant has any objections to disclosure. 47 CFR § 0.461.

⁸⁵ 47 CFR § 54.315(a)(4); *see also PR-USVI Stage 2 Order*, 34 FCC Rcd at 9121-24, paras. 21-26.

⁸⁶ *Id.* An applicant may propose to use different technologies within a geographic area and use hybrid networks to meet its Stage 2 public interest obligations.

⁸⁷ *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9134-35, para. 41 & n.157.

⁸⁸ *Id.*

59. *Detailed Description.* All applicants must submit with their application, for each area, a more detailed description of its technology and system design that describes the network to be built or upgraded, demonstrates the project's feasibility, and includes the network diagram certified by a professional engineer. It must describe in detail a network that fully supports the delivery of consumer voice and broadband service that meets the requisite performance requirements to all locations in each area by the end of the six-year build-out period and for the duration of the 10-year support term. It also must contain sufficient detail to demonstrate that the applicant can meet the interim service milestones if it becomes authorized to receive support. If an applicant submits a technology and system design description that lacks sufficient detail to demonstrate that the applicant has the technical qualifications to meet the relevant Stage 2 obligations, the applicant will be asked to provide further details about its proposed network. The Bureau will treat all the information submitted as confidential and will withhold it from routine public inspection.⁸⁹

60. Below, the Bureau provides guidance on how an applicant can successfully meet the requirement to provide a description of its technology and system design. Specifically, we describe the types of information we would expect an applicant to include, at a minimum, in a detailed description of its technology and system design in order to demonstrate that it has the technical qualifications to meet its Stage 2 obligations.⁹⁰ Our guidance is informed by the types of information that applicants submitted in the CAF II Auction and for rural broadband experiment support.⁹¹ These are also the types of information about which we expect a technically qualified applicant will have made preliminary decisions in order to determine how much support it would need to meet the relevant Stage 2 Competition public interest obligations and to begin planning how it will meet the required service milestones.

61. The Bureau expects an applicant, regardless of the technology (or technologies) it proposes to use, to:

- Describe the proposed last mile architecture(s) and technologies,⁹² middle mile/backhaul topology,⁹³ and the architecture used to provide voice service.⁹⁴
- Describe the network's scalability and features that improve reliability (such as redundancy).
- Indicate whether parts of the network will use the applicant's or another party's existing network facilities, including non-wireless facilities extending from the network to customers' locations.

⁸⁹ We will treat any applicant that submits this information as having made a request to treat this information as confidential trade secrets and/or commercial information. See 47 CFR § 0.459(a)(4). If a request for public inspection under section 0.461 is made, however, the applicant will be notified and will be required to justify confidential treatment of its request if the applicant has any objections to disclosure. 47 CFR § 0.461.

⁹⁰ We recognize that because a Stage 2 support recipient has six years to fully build out its network, the information submitted by the application may be based on a preliminary network design that may be modified as the network is built out.

⁹¹ See *Auction 903 Procedures PN*, 33 FCC Rcd at 1514-18, paras. 298-305; see *Rural Broadband Experiments Order*, 29 FCC Rcd at 8787, para. 54 (requiring rural broadband experiment support recipients to "submit a description of the technology and system design used to deliver voice and broadband service, including a network diagram, which must be certified by a professional engineer").

⁹² Such architectures and technologies include, for example, wireless licensed or unlicensed, fiber, coaxial cable, satellite, digital subscriber line, hybrids, etc.

⁹³ For example, describe ring, mesh, tree and branch, and hybrid topologies.

⁹⁴ This description should include the applicant's Session Initiation Protocol (SIP) proxies, session border controllers, and various network databases. If the applicant obtains these or other voice service functions as services from another provider or providers (for example, an over-the-top VoIP provider, or an incumbent or competitive local exchange carrier), the description should so indicate.

For non-wireless facilities that do not yet exist, the description should indicate whether the new facilities will be aerial, buried, or underground.

- Provide technical information about the methods, “rules of thumb,” and engineering assumptions used to size the capacity of the network’s nodes (or gateways) and links. The information provided should demonstrate how the required performance for the relevant performance tier will be achieved during periods of peak usage.
- Provide a project plan that includes a network build-out schedule that includes but is not restricted to plans for construction of last mile and middle mile facilities. The build-out schedule should show the applicant’s projected milestones on an annual basis, including achievement of the interim service milestones described in the *PR-USVI Stage 2 Order* and completion of the network by the end of the sixth year of funding authorization.⁹⁵ The project plan and included schedule should incorporate detailed information showing how the applicant plans to offer, to all locations in each geographic area, voice and broadband service meeting the relevant performance requirements when the system is complete. The project plan and included schedule should also incorporate the applicant’s plans for monitoring and maintaining the performance of the service for the duration of the 10-year support term.

62. The network diagram, which must be certified by a professional engineer, should:

- Identify all wireline and wireless segments of the proposed networks.
- Uniquely identify (i) major network nodes⁹⁶ including their manufacturer and model, as well as their functions, locations,⁹⁷ and throughput/capacity;⁹⁸ (ii) access nodes or gateways,⁹⁹ including their technology, manufacturer and model, location, and throughput/capacity; and (iii) major inter-nodal links (not last mile),¹⁰⁰ and their throughput/capacity.
- Indicate how many locations will be offered service from each access node or from each gateway, and which performance tier or tiers will be supported at each access node.
- Indicate what parts of the network will be new deployment and what parts will use the applicant’s or another party’s existing network facilities.
- Identify specialized nodes used in providing voice service.
- Explain how nodes or gateways are connected to the Internet backbone and Public Switched Telephone Network.

⁹⁵ *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9143-44, para. 62.

⁹⁶ Major nodes include, but are not necessarily restricted to, routers, SIP Proxies, softswitches, and databases used to route Internet communications and voice calls; and Points of Interconnection with the Public Switched Telephone Network and the Internet core.

⁹⁷ An applicant should provide addresses if available. To the extent latitude and longitude coordinates are provided, an applicant should include six digits after the decimal point.

⁹⁸ Capacity should be measured in Gigabits per second for routers, calls per hour for SIP proxies and softswitches, queries per minute for databases, and appropriate units for other nodes.

⁹⁹ An access node connects a customer’s connection to the core of the network. Access nodes include wireless base stations, digital subscriber line access modules, cable modem termination systems, and optical line terminations, among others. Access nodes are sometimes referred to as aggregation nodes. When we reference gateways, we are referring to the gateway earth stations used by satellite providers.

¹⁰⁰ Include links that connect access nodes to the network core, among other major inter-nodal links. Each inter-nodal link should be identified by specifying the nodes at the ends of the link.

63. Additionally, an applicant that proposes to use terrestrial fixed wireless technologies should:

- Explain, with technical detail, how the proposed spectrum can meet or exceed the relevant performance requirements at peak usage periods.¹⁰¹
- Provide the calculations used,¹⁰² for each performance tier and frequency band, to design the last mile link budgets in both the upload and download directions at the cell edge,¹⁰³ using the technical specifications of the expected base station and customer premise equipment.
- Provide coverage maps for the planned and/or existing networks that will be used to meet the Stage 2 public interest obligations, indicating where the upload and download speeds will meet or exceed the relevant performance tier speed(s).¹⁰⁴ The coverage maps should be provided for each interim and final service milestone and should display the required service areas and target locations (or a representation thereof).
- Describe the underlying propagation model used to prepare the coverage maps and how the model incorporates the operating spectrum, antenna heights, distances, digital elevation, and clutter resolutions.¹⁰⁵
- Describe, for each relevant performance tier and latency combination, the base station equipment that the applicant plans to use.¹⁰⁶
- Describe the planned customer premise equipment configuration.¹⁰⁷

64. Additionally, an applicant that proposes to use primarily satellite technologies should:¹⁰⁸

- Describe how many satellites that are in view simultaneously from any specific location will be required to meet the relevant Stage 2 public interest obligations.
- Describe how many uplink and downlink gateway antenna beams will be required on each satellite, and the capacity of each beam in megabits per second.
- Describe how many uplink and downlink user antenna beams will be required on each satellite,

¹⁰¹ The justification should clearly define all relevant assumptions including, but not limited to, oversubscription ratio, number of locations, spectrum efficiency, bandwidth, peak periods required user data rate, and peak periods network loading.

¹⁰² This should include a description of all design assumptions, including, but not limited to, coverage reliability, fade margins, required frame error rate, required signal-to-noise ratio, and modulation/coding scheme associated with frame error rate and signal to noise ratio.

¹⁰³ The term cell edge is commonly used to describe the edge of the base station coverage area beyond which performance goals cannot be achieved.

¹⁰⁴ Typically, a suitable received power figure or other technology dependent figure is used for such coverage plots.

¹⁰⁵ An applicant should provide vendor references and publicly available publications for the utilized model, digital elevation, and clutter data.

¹⁰⁶ Such a description should include technology, speed, number of sectors, average number of subscribing locations per sector, frequency band, channel bandwidth, frequency reuse, antenna gain, diversity configuration, estimated losses, estimated height above ground, base station coordinate in NAD 83, and any other relevant information. An applicant should also include vendor specification data sheets or other supporting documents.

¹⁰⁷ Such a description should include technology, applicable frequency band, speed options, antenna gain, diversity scheme and modem specifications. An applicant should also include vendor specification data sheets or other supporting documents.

¹⁰⁸ This does not include applicants that intend to use satellite technologies primarily for backhaul.

and the capacity of each beam in megabits per second.

- Describe how the gateway capacity is connected to user beams on the satellite, in terms of beams and data capacity per beam.
- Describe whether the capacity on the uplink and downlink beams would be able to be reallocated once a satellite commences operation, if the subscription rate is less in one beam but than in another beam.

e. Letter of Credit Commitment Letter

65. An applicant must submit with its application a letter from a bank acceptable to the Commission, as set forth in section 54.1508, committing to issue an irrevocable stand-by letter of credit, in the required form, to the applicant.¹⁰⁹ The letter must, at a minimum, provide the dollar amount of the letter of credit and the issuing bank's agreement to follow the terms and conditions of the Commission's model letter of credit, attached hereto as Appendix B of this Notice.¹¹⁰ The Bureau will treat this letter as confidential trade secrets and/or commercial information and thus withhold it from routine public inspection.

f. Due Diligence Certification

66. Each applicant has sole responsibility for investigating and evaluating all technical and marketplace factors that may have a bearing on the amount of Stage 2 support it will seek in its application. Each qualified applicant is responsible for certifying that, if it becomes a winning applicant and is ultimately authorized to receive Stage 2 support, it will be able to build and operate facilities in accordance with the Stage 2 obligations and the Commission's rules generally.

67. Applicants should be aware that the Stage 2 Competition represents an opportunity to apply for Stage 2 support, subject to certain conditions and regulations. The Stage 2 Competition does not constitute an endorsement by the Bureau or Commission of any particular service, technology, or product, nor does the award of Stage 2 support constitute a guarantee of business success.

68. An applicant should perform its due diligence research and analysis before proceeding, as it would with any new business venture. In particular, the Bureau strongly encourages each applicant to review all underlying Commission orders and to assess all pertinent economic factors relating to the deployment of service in a particular area.

69. Each applicant should perform technical analyses or refresh its previous analyses to assure itself that, should it become authorized to receive Stage 2 support, it will be able to build and operate facilities that fully comply with all applicable technical and legal requirements and will advertise and provide the service to customers. Each applicant should verify the number of actual locations within the geographic areas that it proposes to serve in its application. Each Stage 2 support recipient will be required to offer service meeting the relevant requirements to all locations across all the winning areas where it is authorized to receive support. The Bureau provided location counts in the Stage 2 Reserve Price Public Notice, released on December 19, 2019.¹¹¹ As described above and below,¹¹² the Commission has adopted a process by which support recipients that cannot identify all locations can demonstrate that the number of actual, on-the-ground locations is lower than the number estimated by the

¹⁰⁹ 47 CFR § 54.1508; *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9201-05, Appendix C (describing the letter of credit requirements and providing models); *see also* 47 CFR § 54.315(b)(3), (c)(2); 47 CFR § 54.315(c) (describing the Auction 903 letter of credit requirements).

¹¹⁰ 47 CFR § 54.315(b)(3).

¹¹¹ *PR-USVI Stage 2 Reserve Price Notice* at Attachments.

¹¹² *See supra* Section I.D (Public Interest Obligations), Section IV.E (Location Adjustment Process).

CAM. Such a demonstration must be made within one year after the release of the Stage 2 Competition public notice announcing the winners and will be subject to review by the Bureau following comment by relevant stakeholders and potentially an audit. Applicants' due diligence should be informed by the availability of and requirements for this process, in addition to other factors.

70. The Bureau also reminds each applicant that pending and future judicial proceedings, as well as certain pending and future proceedings before the Commission—including applications, applications for modification, notices of proposed rulemaking, notices of inquiry, petitions for rulemaking, requests for special temporary authority, waiver requests, petitions to deny, petitions for reconsideration, informal objections, and applications for review—may relate to or affect licensees or applicants for support in the Stage 2 Competition. Each applicant is responsible for assessing the likelihood of the various possible outcomes and for considering the potential impact on Stage 2 support available through this competition. The due diligence considerations mentioned in this Public Notice do not comprise an exhaustive list of steps that should be undertaken prior to participating in this competition. As always, the burden is on the applicant to determine how much research to undertake, depending upon specific facts and circumstances related to its interests.

71. Each applicant is solely responsible for identifying associated risks and for investigating and evaluating the degree to which such matters may affect its ability to apply for or otherwise receive Stage 2 support. Each applicant is responsible for undertaking research to ensure that any support won in this competition will be suitable for its business plans and needs. Each applicant must undertake its own assessment of the relevance and importance of information gathered as part of its due diligence efforts.

72. The Bureau makes no representations or guarantees regarding the accuracy or completeness of information in the Commission's databases or any third-party databases, including, for example, court docketing systems. To the extent the Commission's databases may not include all information deemed necessary or desirable by an applicant, an applicant must obtain or verify such information from independent sources or assume the risk of any incompleteness or inaccuracy in said databases. Furthermore, we make no representations or guarantees regarding the accuracy or completeness of information that has been provided by incumbent licensees and incorporated into the Commission's databases.

73. To confirm an applicant's understanding of its obligations, we require each applicant to certify under penalty of perjury in its application that:

The applicant acknowledges that it has sole responsibility for investigating and evaluating all technical, marketplace, and regulatory factors that may have a bearing on the level of Uniendo a Puerto Rico Fund or Connect USVI Fund Stage 2 Fixed high-cost support it submits in its application, and that, if the applicant wins support, it will be able to build and operate facilities in accordance with the Uniendo a Puerto Rico Fund or Connect USVI Fund Stage 2 obligations and the Commission's rules generally.

74. This certification will help ensure that an applicant acknowledges and accepts responsibility for its application and any forfeitures imposed in the event of default,¹¹³ and that it will not attempt to place responsibility for the consequences of its activity in this process on either the Commission or any of its contractors.

¹¹³ See, e.g., *Phase II Auction Order*, 31 FCC Rcd at 5984-85, 6000, paras. 104, 143.

g. Eligible Telecommunications Carrier Certification

75. An applicant must acknowledge in its application that it must be designated as an ETC for the areas in which it will receive support prior to being authorized to receive support.¹¹⁴ Only ETCs designated pursuant to section 214(e) of the Communications Act of 1934, as amended (the Act) “shall be eligible to receive specific Federal universal service support.”¹¹⁵ Section 214(e)(2) gives states the primary responsibility for ETC designation.¹¹⁶ However, section 214(e)(6) provides that this Commission is responsible for processing requests for ETC designation when the service provider is not subject to the jurisdiction of any state commission.¹¹⁷ Support is disbursed only after the provider receives an ETC designation and satisfies the requirements.

76. The Commission decided that an applicant need not be an ETC as of the application filing deadline for the Stage 2 Competition, but that it must obtain a high-cost ETC designation for the areas covered by its winning applications within 60 days after being announced as a winning applicant.¹¹⁸

77. Absent a waiver, an applicant that fails to obtain the necessary ETC designations by that deadline will be subject to a forfeiture as described below, and will not be authorized to receive Stage 2 support.¹¹⁹ In addition to all the requirements for participating in the Stage 2 Competition, each applicant should be familiar with the requirements of a high-cost ETC. For example, all high-cost ETCs are required to offer Lifeline voice and broadband service to qualifying low-income consumers pursuant to the Lifeline program rules.¹²⁰ Moreover, when the requirement has been fully implemented, each Stage 2 support recipient will be required to bid on Category One telecommunications and Internet access services in response to a posted FCC Form 470 seeking broadband service that meets the connectivity targets for the Schools and Libraries universal service support program (E-rate) for eligible schools and libraries located within any area in a census block where the ETC is receiving Stage 2 support.¹²¹ A high-cost ETC may also be subject to state-specific requirements imposed by the state that designates it as an ETC.

¹¹⁴ 47 CFR § 54.1505; *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9141-, paras. 54-56. A Lifeline-only ETC designation is not sufficient, and the applicant must obtain a high-cost ETC designation in areas where it seeks to be authorized to receive Stage 2 support.

¹¹⁵ 47 U.S.C. § 254(e); 47 CFR § 54.201(a)(1).

¹¹⁶ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 20 FCC Rcd 6371, 6397, para. 61 (2005).

¹¹⁷ 47 U.S.C. § 214(e)(6).

¹¹⁸ 47 CFR § 54.1505; *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9141-42, paras. 54-56; *see also* 47 CFR §§ 54.310(e)(1), 54.315(b)(5); *Auction 903 Procedures PN*, 33 FCC Rcd at 1472-73, paras. 120-121; *April 2014 Connect America Order*, 29 FCC Rcd at 7064-66, paras. 40-46.

¹¹⁹ The Commission explained that in the event an applicant is unable to obtain the necessary ETC designations within this timeframe, it would be appropriate to waive the 60-day timeframe if the applicant is able to demonstrate that it has engaged in good faith efforts to obtain an ETC designation, but the proceeding is not yet complete. *See PR-USVI Stage 2 Order*, 34 FCC Rcd at 9142, para. 55.

¹²⁰ *See* 47 CFR §§ 54.101(d), 54.405(a); 47 CFR Subpart E.

¹²¹ 47 CFR § 54.309(b) (such applications must be at rates reasonably comparable to rates charged to eligible schools and libraries in urban areas for comparable offerings); *see also Modernizing the E-rate Program for Schools and Libraries et al.*, Second Report and Order and Order on Reconsideration, 29 FCC Rcd 15538, 15562-69, paras. 60-76 (2014). The Bureau has not yet adopted reasonable comparability benchmarks to implement this requirement.

h. Disaster Preparation and Response Plan (DPRP)

78. An applicant is required to submit with its application a Disaster Preparation and Response Plan (DPRP), which will be reviewed by the Bureau for completeness.¹²² The DPRP should, at a minimum, address in detail how an applicant intends to prepare for and respond to disasters in Puerto Rico and/or the U.S. Virgin Islands according to five criteria: (1) Strengthening Infrastructure; (2) Ensuring Network Diversity; (3) Ensuring Backup Power; (4) Network Monitoring; and (5) Emergency Preparedness. The detailed DPRP must include, for each criterion:

- a description of your commitments to maintain, improve or modify your facilities based on reasonably-selected best practices, checklists and industry standards;
- commitments that are auditable and your agreement to be subject to reasonable audit procedures; and
- identification of your employee official(s) responsible for management and compliance.

For each criterion, the Bureau has provided example best practices, checklists, and/or standards in the Appendix C. It may be useful to consider and/or incorporate some or all of these materials in preparing the DPRP; however, we do not endorse any of the specific examples, but rather we simply provide them as examples that may prove useful. The applicant should explain why it believes compliance with any specific standard it identifies will prove adequate to meet the criteria we set forth.

(i) Bureau Review

79. As directed by the Commission and as part of its review of the application, Bureau staff will review each applicant's DPRP for completeness, and may contact the applicant for further information. The Bureau will provide detailed written notification of the deficiencies, if any, to the carrier and withhold authorization to receive support until the support recipient has cured the deficiencies.¹²³

(ii) Opportunity to Amend DPRP

80. Notwithstanding the prohibition against major modifications to an application after the submission deadline, the Bureau will allow an applicant to amend its DPRP submission in order to maintain best practices to prepare for and respond to disasters.

(iii) Obligation to Update DPRP

81. A support recipient must certify annually to USAC that it has recently reviewed the DPRP and considered whether any changes or revisions were necessary. A support recipient has the obligation to provide the Bureau with an updated DPRP within 10 days of making any material changes to the DPRP, and for as long as it receives Stage 2 support.¹²⁴

D. Procedures for Limited Disclosure of Application Information

82. Consistent with the Commission's practice in the CAF II Auction (Auction 903), Mobility Fund I and Tribal Mobility Fund I (Auctions 901 and 902) and recent spectrum auctions, we adopt procedures for limiting the application information that will be disclosed to the public.¹²⁵

¹²² 47 CFR § 54.1515; *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9174-76, paras. 134-137.

¹²³ 47 CFR § 54.1515(b); *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9174-76, paras. 134-137.

¹²⁴ 47 CFR § 54.1515(c).

¹²⁵ See *Auction 903 Procedures PN*, 33 FCC Rcd at 1473-76, paras. 122-27; *CAF II Auction Comment Public Notice*, 32 FCC Rcd at 6272, para. 137; 47 CFR § 1.21003(b)(1); see also *Competition of Advanced Wireless Services (AWS-3) Licenses Scheduled for November 13, 2014; Notice and Filing Requirements, Reserve Prices, Minimum Opening Applications, Upfront Payments, and Other Procedures for Competition 97*, Public Notice, 29

83. Specifically, the Bureau will withhold from the public and other applicants the application information listed below to help ensure anonymous applications and to protect applicants' competitively sensitive information. This Bureau will withhold the application information until at least after the winning applicants have been authorized to receive Stage 2 high-cost support. The application information to be withheld includes, but is not limited to:

- The minimum geographic areas selected by an applicant.
- The performance tier and latency combination(s) selected by an applicant and the associated weight for each combination.
- The applicant's price percentage(s).
- The spectrum access description.
- An applicant's responses to the questions in this Public Notice and any supporting documentation submitted in any attachment(s) that are intended to demonstrate an applicant's ability to meet the public interest obligations for each performance tier and latency combination that the applicant has selected in its application.
- Any financial information contained in an applicant's Stage 2 application for which the applicant has requested confidential treatment under the abbreviated process in section 0.459(a)(4) of the Commission's rules.¹²⁶
- An applicant's letter of interest from a qualified bank that the bank would provide a letter of credit to the applicant.
- The applicant's DPRP.

84. Unlike the typical section 0.459 process, which requires that an applicant submit a statement of the reasons for withholding the information for which confidential treatment is sought from public inspection,¹²⁷ an applicant that seeks confidential treatment of the financial information contained in its application need not submit a statement that conforms with the requirements of section 0.459(b) unless and until its request for confidential treatment is challenged.¹²⁸ Because we have found in other contexts that financial information that is not otherwise publicly available could be competitively sensitive,¹²⁹ we permit applicants seeking confidential treatment of financial information to use this abbreviated process.

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FCC Rcd 8386, 8428-31, paras. 149-57 (WTB 2014) (*Competition 97 Procedures Public Notice*); *Competition of 700 MHz Band Licenses Scheduled for January 24, 2008; Notice and Filing Requirements, Minimum Opening Applications, Reserve Prices, Upfront Payments, and Other Procedures for Competitions 73 and 76*, Public Notice, 22 FCC Rcd 18141, 18181-85, paras. 145-56 (WTB 2007); *Competition of Advanced Wireless Services Licenses Scheduled for June 29, 2006; Notice and Filing Requirements, Minimum Opening Applications, Upfront Payments and Other Procedures for Competition No. 66*, Public Notice, 21 FCC Rcd 4562, 4600-05, paras. 140-57 (2006).

¹²⁶ See 47 CFR § 0.459(a)(4). For this purpose, "financial information" includes an applicant's financial statements that may be submitted with the application.

¹²⁷ 47 CFR § 0.459(b).

¹²⁸ 47 CFR § 0.459(a)(4). Section 0.459(b) of the Commission's rules cross-references section 0.459(a)(3), which the Commission redesignated as section 0.459(a)(4) in 2011. See FCC, Commission's Rules of Practice, Procedure, and Organization, 76 Fed. Reg. 24383 (May 2, 2011); *Modernizing the FCC Form 477 Data Program*, Report and Order, 28 FCC Rcd 9887, 9921, para. 79 (2013) (allowing for the request of confidentiality pursuant to a check-box on the Form 477).

¹²⁹ *Connect America Fund Fifth Reconsideration Order*, 27 FCC Rcd at 14554-56, paras. 15-17.

85. The section 0.459(a)(4) abbreviated process for requesting confidential treatment may *not* be used by an applicant to request confidential treatment of any information in its application other than its financial information. Thus, an applicant that wishes to seek confidential treatment of any other portion(s) of its application must file a regular section 0.459 request for confidential treatment of any such information with its application (other than responses to the questions in this Public Notice and associated supporting documentation that we presume to be competitively sensitive). This request must include a statement of the reasons for withholding those portions of the application from public inspection.¹³⁰ Additionally, in the event an applicant's abbreviated request for confidential treatment of the financial information contained in its application is challenged, the applicant must submit a request for confidential treatment of its financial information that conforms with the requirements of section 0.459 within 10 business days after receiving notice of the challenge.

86. After the winning applicant(s) is authorized to receive Stage 2 fixed support, we no longer have a need to preserve the confidentiality of the contents of applications. Accordingly, we will make publicly available all application information, except for an applicant's operational information (including its DPRP), letter of interest, and confidential financial information. This approach is consistent with our interest in a transparent competition process and the Commission's recent practices in the CAF II Auction 903, Mobility Fund Phase I competition and our typical spectrum competitions.

E. Prohibited Communications and Compliance with Antitrust Laws

87. To help protect competition during the Stage 2 Competition, we incorporate into this process the Commission's rules prohibiting an applicant from communicating certain proposal-related information to another applicant from the application filing deadline until awards are announced.¹³¹ More specifically, section 1.21002 of the Commission's rules prohibits an applicant from cooperating or collaborating with any other applicant with respect to its own, or one another's, or any other competing applicant's applications or application strategies, and from communicating with any other applicant in any manner the substance of its own, or one another's, or any other competing applicant's applications or application strategies during the prohibition period.¹³² The rule provides an exception for communications between applicants if those applicants identify each other on their respective applications as members of a joint application arrangement and certify that the application identifies all real parties in interest to agreements related to the applicant's participation in the competition.¹³³ Consistent with the Commission's direction in the *PR-USVI Stage 2 Order*, we apply a prohibition identical to section 1.21002 to the Stage 2 Competition.¹³⁴

88. This section provides guidance on the application of the rule during the Stage 2 Competition. As in past competitions and auctions for support, the targeted restrictions imposed by the rule are necessary to serve the important public interest in a fair and competitive process.¹³⁵

¹³⁰ 47 CFR § 0.459(b).

¹³¹ *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9133-34, para. 39 & n.150.

¹³² 47 CFR § 1.21002.

¹³³ See 47 CFR §§ 1.21001(b)(3)-(4), 1.21002; see also *USF/ICC Transformation Order*, 26 FCC Rcd at 17807, para. 431.

¹³⁴ *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9133-34, para. 39 n.150 (providing that the prohibited communications "requirements shall be substantially similar to the requirements of 47 CFR § 1.21002(b) applicable to competitive bidding for universal service support").

¹³⁵ See *Auction 903 Procedures PN*, 33 FCC Rcd at 1476-86, paras. 128-65; *Guidance Regarding the Prohibition of Certain Communications During the Incentive Competition, Competition 1000*, Public Notice, 30 FCC Rcd 10794 (WTB 2015) (*BIA Guidance*); *Mobility Fund Phase I Competition Scheduled for September 27, 2012; Notice and Filing Requirements and Other Procedures for Competition 901*, Public Notice, 27 FCC Rcd 4725, 4743-44, paras.

1. Entities Covered by Communications Prohibition

89. Consistent with section 1.21002, the prohibition of certain communications that we adopt will apply to any party that submits an application to participate in the Stage 2 Competition. **This prohibition applies to all parties that submit an application by the deadline regardless of whether such parties become winning applicants authorized to receive Stage 2 support.**¹³⁶

90. “Applicant” for purposes of this rule includes the entity filing the application, each party capable of controlling the applicant, and each party that may be controlled by the applicant or by a party capable of controlling the applicant.¹³⁷

91. Subject to the exception described above, the prohibition applies to communications by an applicant that are conveyed to another applicant.¹³⁸ The prohibition of “communicating in any manner” includes public disclosures as well as private communications and indirect or implicit communications, as well as express statements.¹³⁹ Consequently, an applicant must take care to determine whether its Stage 2 Competition-related communications may reach another applicant, unless the exception applies.¹⁴⁰

92. Applicants should take special care in circumstances where their officers, directors, and employees may receive information directly or indirectly relating to any other applicant’s Stage 2 applications or application strategies. Information received by a party related to the applicant may be deemed to have been received by the applicant under certain circumstances. For example, Commission staff have found that, where an individual serves as an officer and director for two or more applicants, the applications and application strategies of one applicant are presumed conveyed to the other applicant, and,

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54-55 (WCB & WTB 2012) (discussing prohibition in competitive bidding for universal service support); *Amendment of Part 1 of the Commission’s Rules – Competitive Bidding Procedures*, Seventh Report and Order, 16 FCC Rcd 17546, 17551-52, para. 11 (2001) (explaining that “when one applicant is privy to a competing applicant’s strategic bidding information . . . it may use such information to manipulate the competitions process and gain an unfair competitive advantage”).

¹³⁶ See, e.g., *Star Wireless, LLC*, Forfeiture Order, 19 FCC Rcd 18626, 18628, para. 4 & n.19 (2004), *application for review granted in part sub nom. Star Wireless, LLC and Northeast Communications of Wisconsin, Inc.*, Order on Review, 22 FCC Rcd 8943 (2007) (*Star and Northeast Review Order*), *petition for review denied, Star Wireless, LLC v. FCC*, 522 F.3d 469 (D.C. Cir. 2008) (observing that Section 1.2105(c) applies to applicants regardless of whether they are qualified to application); Letter from Margaret W. Wiener, Chief, Competitions and Industry Analysis Division, FCC, to Robert Pettit, Wiley, Rein & Fielding, 16 FCC Rcd 10080 (2000) (declining to exempt an applicant’s controlling interest from coverage by the communication prohibitions of section 1.2105(c), even though the applicant never made an upfront payment for the competition and was not listed as a qualified applicant).

¹³⁷ 47 CFR § 1.21002(a).

¹³⁸ *Id.* § 1.21002(b).

¹³⁹ *Id.*; see generally *Updating Part 1 Competitive Bidding Rules*, Report and Order et al., 30 FCC Rcd 7493, 7577, para. 199 (2015) (explaining that similar section 1.2105(c) language prohibiting communicating applications or bidding strategies “in any manner” bars “communicating applications or bidding information, either directly or indirectly”); *Cascade Access, L.L.C.*, Forfeiture Order, 28 FCC Rcd 141, 144, para. 7 (EB 2013) (rejecting argument

absent a disclosed agreement that makes the rule's exception applicable, the shared officer creates an apparent violation of the rule.¹⁴¹

2. Prohibition Applies Until Deadline

93. Consistent with section 1.21002, the prohibition of certain communications begins at the application filing deadline and ends when the winning applicants are authorized to receive Stage 2 support.

3. Prohibited Communications

94. Consistent with section 1.21002 as applied to this Stage 2 Competition, the rule prohibits an applicant from communicating with another applicant only with respect to "its own, or one another's, or any other competing applicant's application or application strategies."¹⁴² Thus, the prohibition does not apply to all communications between or among applicants; it applies to any communication conveying, in whole or part, directly or indirectly, the applicant's or a competing applicant's "application or application strategies."

95. All applicants seeking support in the competitive proposal process are "competing applicants" under the rule. Parties apply to participate in the Stage 2 Competition to obtain support from a fixed budget. As such, applicants are competing with one another regardless of whether each seeks to serve different geographic areas with Stage 2 support.¹⁴³

96. Business discussions and negotiations that are *unrelated* to applications in the Stage 2 Competition and that do not convey information about Stage 2 applications or application strategies are not prohibited by the rule.¹⁴⁴ Moreover, not all competition-related information is covered by the prohibition. For example, communicating merely whether a party has or has not applied to participate in the Stage 2 Competition will not violate the rule. In contrast, communicating how a party is participating, including specific areas and/or tier and latency combinations selected, specific price percentages, and/or whether or not the party has submitted an application, would convey applications or application strategies and would be prohibited.¹⁴⁵

97. In the present context, the prohibited communications rule will take effect after applications are due and continue to be in effect until the Bureau announces the winning applicants that are authorized

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that the communication was not prohibited because it did not reveal the "substance" of Cascade's applications or bidding strategies).

¹⁴⁰ We remind applicants that they must determine whether parties with whom they are communicating are covered by the rule once the prohibition begins at the deadline for submitting applications, even before the public notice identifying applicants is released.

¹⁴¹ See, e.g., Letter from Barbara A. Kreisman, Chief, Video Division, FCC Media Bureau, and Margaret W. Wiener, Chief, Competitions and Spectrum Access Division, FCC Wireless Telecommunications Bureau, to Colby M. May, TCCSA, Inc., d/b/a Trinity Broadcasting Network, 20 FCC Rcd 14648 (2005) (finding apparent violation of communication prohibitions of section 1.2105(c) where applicants with mutually exclusive applications reported sharing same individual as an officer and director and reported having no bidding agreement).

¹⁴² 47 CFR § 1.21002(b).

¹⁴³ See *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Competitions*, Report and Order, 29 FCC Rcd 6567, 6738, para. 400 (2014) (explaining that applicants were competitors even when bidding on different geographic areas in Auction 903 because the bidding system determined which areas received support based on a limited budget).

¹⁴⁴ See *BIA Guidance*, 30 FCC Rcd at 10795, para. 3.

¹⁴⁵ See *id.* at 10796-97, paras. 6-9.

for support. Although there are no subsequent rounds, and applicants may not add or subtract competitive area-specific proposals after that date, it is imperative that an applicant not discuss with any other applicant any aspect of its application and proposals until the winning applicants are authorized for support to comply with the rule. Previously, the Commission has found discussions related to strategic defaults between winning auction bidders after the close of bidding in an auction to violate the prohibited communications rule.¹⁴⁶

98. While consistent with section 1.21002 we do not prohibit business discussions and negotiations among applicants that are not competition related, each applicant must remain vigilant not to communicate, directly or indirectly, information that affects, or could affect, applications or application strategy. Certain discussions might touch upon subject matters that could convey cost information and application strategies. Such subject areas include, but are not limited to, management, sales, local marketing agreements, and other transactional agreements.

99. We caution applicants that applications or application strategies may be communicated outside of situations that involve one party subject to the prohibition communicating privately and directly with another such party.

100. Applicants should use caution in their dealings with other parties, such as members of the press, financial analysts, or others who might become conduits for prohibited communication of application information. For example, even though communicating that it has applied to participate in the competition will not violate the rule, an applicant's statement to the press about the details of its application or proposal in the competition could give rise to a finding of a violation of the prohibition on certain communications that we adopt.¹⁴⁷

4. Communicating with Third Parties

101. Consistent with section 1.21002, we do not prohibit an applicant from communicating application or application strategies to a third party, such as a consultant or consulting firm, counsel, or lender, provided that the applicant takes appropriate steps to ensure that the third party does not become a conduit for prohibited communications to other applicants, unless both applicants are parties to a joint application arrangement disclosed on their respective applications.¹⁴⁸ For example, an applicant might require a third party, such as a lender, to sign a non-disclosure agreement before the applicant communicates any information regarding application or application strategy to the third party.¹⁴⁹ Within third-party firms, separate individual employees, such as attorneys or competition consultants, may advise individual applicants on application or application strategies, as long as such firms implement firewalls and other compliance procedures that prevent such individuals from communicating the application or application strategies of one applicant to other individuals representing separate applicants.¹⁵⁰ Although firewalls and/or other procedures should be used, their existence is not an absolute defense to liability if a

¹⁴⁶ See *Commercial Realty St. Pete, Inc.*, Memorandum Opinion and Order, 11 FCC Rcd 15374 (1996).

¹⁴⁷ Cf. *Wireless Telecommunications Bureau Responds to Questions About the Local Multipoint Distribution Service Competition*, Public Notice, 13 FCC Rcd 341, 347-48 (WTB 1998) ("Public statements can give rise to collusion concerns. This has occurred in the antitrust context, where certain public statements can support other evidence which tends to indicate the existence of a conspiracy.").

¹⁴⁸ See, e.g., *BIA Guidance*, 30 FCC Rcd at 10798, para. 13 (describing the use of non-disclosure agreements and, for third parties that may be advising multiple covered parties, firewalls).

¹⁴⁹ *Id.*

¹⁵⁰ See *id.*; *Application of Nevada Wireless*, Memorandum Opinion and Order, 13 FCC Rcd 11973, 11978, para. 12 (1998) (*Nevada Wireless Order*) (strongly encouraging parties to implement any firewall procedures necessary and to provide information in their auction bids regarding the procedures).

violation of the rule has occurred.¹⁵¹

102. As the Commission has previously explained, in the case of an individual, the objective precautionary measure of a firewall is not available.¹⁵² As a result, an individual that is privy to bids or bidding information of more than one applicant presents a greater risk of engaging in a prohibited communication.¹⁵³ We will take the same approach to interpreting the prohibited communications rule in the Stage 2 Competition. We emphasize that whether a prohibited communication has taken place in a given case will depend on all the facts pertaining to the case, including who possessed what information, what information was conveyed to whom, and the status of the competition.¹⁵⁴

103. We remind potential applicants that they may discuss the application or proposals for specific geographic areas with the counsel, consultant, or expert of their choice *before* the application deadline. Furthermore, the same third-party individual could continue to give advice after the deadline regarding the application, provided that no information pertaining to application or application strategies is conveyed to that individual.

5. Certification

104. By submitting an application, each applicant in the Stage 2 Competition certifies its compliance with the prohibition on certain communications that we adopt, consistent with the Commission's direction in the *PR-USVI Stage 2 Order*.¹⁵⁵ In particular, an applicant must certify under penalty of perjury that the application discloses all real parties in interest to any agreements involving the applicant's participation in the applying for Stage 2 support.¹⁵⁶ Also, the applicant must certify that it and all applicable parties have complied with and will continue to comply with the prohibition we adopt, which is identical to 47 CFR § 1.21002.¹⁵⁷

105. We caution, however, that merely filing a certifying statement as part of an application will not outweigh specific evidence that a prohibited communication has occurred, nor will it preclude the initiation of an investigation when warranted.¹⁵⁸ The Commission has stated that it "intend[s] to scrutinize carefully any instances in which applying patterns suggest that collusion may be occurring."¹⁵⁹ Any applicant found to have violated the prohibition on certain communications may be subject to sanctions.¹⁶⁰

6. Duty to Report Prohibited Communications

106. Consistent with section 1.21002(c), we require that any applicant that makes or receives a communication that appears to violate the prohibition on certain communications that we adopt must report such communication in writing to the Commission immediately, and in no case later than five

¹⁵¹ See, e.g., *BIA Guidance*, 30 FCC Rcd at 10799, para. 14; *Nevada Wireless Order*, 13 FCC Rcd at 11978, para. 13.

¹⁵² *Auction 903 Procedures Public Notice*, 33 FCC Rcd at 1480, para. 145; see also *BIA Guidance*, 30 FCC Rcd at 10800, para. 15.

¹⁵³ *Id.*

¹⁵⁴ *Id.*

¹⁵⁵ 47 CFR §§ 1.21001(b)(4), 1.21002.

¹⁵⁶ *Id.* § 1.21001(b)(4).

¹⁵⁷ *Id.* §§ 1.21001(b)(5), 1.21002.

¹⁵⁸ See *Nevada Wireless Order*, 13 FCC Rcd at 11978, para. 13.

¹⁵⁹ *Competitive Bidding Memorandum Opinion and Order*, 9 FCC Rcd at 7689, para. 12.

¹⁶⁰ See, e.g., 47 CFR § 1.2109(d).

business days after the communication occurs.¹⁶¹ An applicant's obligation to make such a report continues until the report has been made.¹⁶²

107. In addition, section 1.65 of the Commission's rules requires an applicant to maintain the accuracy and completeness of information furnished in its pending application and to notify the Commission of any substantial change that may be of decisional significance to that application.¹⁶³ Thus, section 1.65 requires a Stage 2 Competition applicant to notify the Commission of any substantial change to the information or certifications included in its pending application. An applicant is therefore required by section 1.65 to report to the Commission any communication the applicant has made to or received from another applicant after the application filing deadline that affects or has the potential to affect its application or application strategy, unless such communication is made to or received from an applicant that is a member of a joint application arrangement identified on the application.¹⁶⁴

108. Sections 1.65(a) and 1.21002 of the Commission's rules require each applicant in competitive proceedings to furnish additional or corrected information within five days of a significant occurrence, or to amend its application no more than five days after the applicant becomes aware of the need for amendment.¹⁶⁵ These rules are intended to facilitate the competition process by making information that should be publicly available promptly accessible to all participants and to enable the Bureau to act expeditiously on those changes when such action is necessary.¹⁶⁶ For the avoidance of doubt, we apply the same requirement here.

7. Procedure for Reporting Prohibited Communications

109. A party reporting any prohibited communication pursuant to sections 1.65 or the prohibition we adopt here (i.e., a communication that would be prohibited by section 1.21001(b), or 1.21002(c)) must take care to ensure that any report of the prohibited communication does not itself give rise to a violation of the communications prohibition we adopt.¹⁶⁷ For example, a party's report of a prohibited communication could violate the rule by communicating prohibited information to other applicants through the use of Commission filing procedures that allow such materials to be made available for public inspection.

110. Parties must file only a single report concerning a prohibited communication and must file that report with the Commission personnel expressly charged with administering the Commission's competitions.¹⁶⁸ This rule is designed to minimize the risk of inadvertent dissemination of information in such reports. Any required reports must be filed consistent with the instructions set forth in this Public

¹⁶¹ *Id.* § 1.21002(c); *see also Part 1 Seventh Report and Order*, 16 FCC Rcd at 17553-55, paras. 13-17.

¹⁶² 47 CFR § 1.21002(c).

¹⁶³ 47 CFR § 1.65.

¹⁶⁴ *See Part 1 Seventh Report and Order*, 16 FCC Rcd at 17550-51, para. 9.

¹⁶⁵ *Procedural Amendments to Commission Part 1 Competitive Bidding Rules*, Order, 25 FCC Rcd 521, 523, para. 8 (2010) (*Part 1 Procedural Amendments Order*).

¹⁶⁶ *Id.*

¹⁶⁷ 47 CFR §§ 1.65, 1.21001(b)(3)-(5), 1.21002.

¹⁶⁸ *Part 1 Procedural Amendments Order*, 25 FCC Rcd at 522, para. 4. This process differs from filing procedures used in connection with other Commission rules and processes, which may call for submission of filings to the Commission's Office of the Secretary or ECFS. Filing through the Office of Secretary or ECFS could allow the report to become publicly available and might result in the communication of prohibited information to other competition applicants.

Notice.¹⁶⁹ For the Stage 2 Competition, such reports must be filed with Ryan Palmer, the Chief of the Telecommunications Access Policy Division, Wireline Competition Bureau, by the most expeditious means available. Any such report should be submitted by email to Mr. Palmer at the following email address: ConnectAmerica@fcc.gov. If you choose instead to submit a report in hard copy, any such report must be delivered only to: Ryan Palmer, Chief, Telecommunications Access Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, SW, Room 5-A426, Washington, DC 20554.

111. A party seeking to report such a prohibited communication should consider submitting its report with a request that the report or portions of the submission be withheld from public inspection by following the procedures specified in section 0.459 of the Commission's rules.¹⁷⁰ We encourage such parties to coordinate with the Telecommunications Access Policy Division staff about the procedures for submitting such reports.¹⁷¹

8. Disclosure of Agreement Terms

112. Each applicant may be required to disclose in its application the specific terms, conditions, and parties involved in any agreement into which it has entered.¹⁷² This may apply to an applicant that is a consortia, joint venture, partnership, or agreement, understanding, or other arrangement entered into relating to the Stage 2 competitive proposal process, including any agreement relating to the post-competition market structure. Failure to comply with the Commission's rules can result in enforcement action.

9. Additional Information Concerning Prohibition of Certain Communications

113. The prohibition we adopt here is consistent with similar rules the Commission has applied in other Commission competitions and auctions. Applicants may gain insight into the public policies underlying section 1.21002 by reviewing information about the application of these other rules. Decisions applying these rules by courts and by the Commission and its Bureau in other Commission competitions can be found at <https://www.fcc.gov/summary-listing-documents-addressing-application-rule-prohibiting-certain-communications>.¹⁷³ Applicants utilizing these precedents should keep in mind the specific language of the rule applied in past decisions, as well as any differences in the context.

10. Antitrust Laws

114. Regardless of compliance with the Commission's rules, applicants remain subject to the antitrust laws, which are designed to prevent anticompetitive behavior in the marketplace.¹⁷⁴ Compliance

¹⁶⁹ *Id.*

¹⁷⁰ See 47 CFR § 0.459. Filers requesting confidential treatment of documents must be sure that the cover page of the filing prominently displays that the documents seek confidential treatment. For example, a filing might include a cover page stamped with "Request for Confidential Treatment Attached" or "Not for Public Inspection." Any such request must cover all the material to which the request applies. See *id.* § 0.459(a).

¹⁷¹ See *supra* Section V.D (Contact Information).

¹⁷² See 47 CFR § 54.315(b)(2)(viii) (applicants will need to provide "[s]uch additional information as the Commission may require.>").

¹⁷³ Note that this website is not intended to—and does not—include every Commission document, judicial opinion, or civil enforcement action that refers to the prohibition of certain communications in Commission competitions.

¹⁷⁴ See *Amendment of Part 1 of the Commission's Rules – Competitive Bidding Procedures*, Third Further Notice of Proposed Rulemaking, 14 FCC Rcd 21558, 21560-61, para. 4 & n.17 (1999) (quoting *Competitive Bidding Memorandum Opinion and Order*, 9 FCC Rcd at 7689, para. 12) ("[W]e wish to emphasize that all applicants and their owners continue to be subject to existing antitrust laws. Applicants should note that conduct that is permissible under the Commission's Rules may be prohibited by the antitrust laws."); *Implementation of Section 309(j) of the*

with the disclosure of prohibited communications pursuant to the rules we adopt in this Notice will not insulate a party from enforcement of the antitrust laws.¹⁷⁵ For instance, a violation of the antitrust laws could arise out of actions taking place well before the application filing deadline, when the prohibited communications rule takes effect.¹⁷⁶ The Commission has cited a number of examples of potentially anticompetitive actions that would be prohibited under antitrust laws: for example, actual or potential competitors may not agree to divide territories in order to minimize competition, regardless of whether they split a market in which they both do business, or whether they merely reserve one market for one and another market for the other.¹⁷⁷ Similarly, Commission staff have previously reminded potential applicants and others that “[e]ven where the applicant discloses parties with whom it has reached an agreement on the application... the applicant is nevertheless subject to existing antitrust laws.”¹⁷⁸

115. To the extent the Commission becomes aware of specific allegations that suggest that violations of the federal antitrust laws may have occurred, the Commission may refer such allegations to the United States Department of Justice for investigation.¹⁷⁹ If an applicant is found to have violated the antitrust laws or the Commission’s rules in connection with its participation in the Stage 2 Competition application process, it may be subject to a forfeiture and may be prohibited from participating further in the Stage 2 Competition and in future competitions and auctions, among other sanctions.¹⁸⁰

F. Red Light Rule

116. The Commission has adopted rules, including a provision referred to as the “red light rule,” that implement the Commission’s obligation under the Debt Collection Improvement Act of 1996, which governs the collection of debts owed to the United States, including debts owed to the Commission.¹⁸¹ Under the red light rule, applications and other requests for benefits filed by parties that have outstanding debts owed to the Commission will not be processed.¹⁸² Applicants seeking to participate in the Stage 2 Competition are subject to the Commission’s red light rule.¹⁸³ Pursuant to the red light rule, unless otherwise expressly provided for, the Commission will withhold action on an

(Continued from previous page) _____

Communications Act – Competitive Bidding, Fourth Memorandum Opinion and Order, 9 FCC Rcd 6858, 6869 n.134 (1994) (“[A]pplicants will also be subject to existing antitrust laws.”) (*Fourth Memorandum Opinion and Order*).

¹⁷⁵ See *Competitive Bidding Memorandum Opinion and Order*, 9 FCC Rcd at 7689, para. 12. See also Press Release, Dep’t of Justice, Justice Department Sues Three Firms Over FCC Competition Practices (Nov. 10, 1998).

¹⁷⁶ See, e.g., *Fourth Memorandum Opinion and Order*, 9 FCC Rcd at 6869 n.134.

¹⁷⁷ *Id.*

¹⁷⁸ *Wireless Telecommunications Bureau Clarifies Spectrum Competition Anti-Collusion Rules*, Public Notice, 11 FCC Rcd 9645, 9646 (WTB 1995).

¹⁷⁹ See *Implementation of Section 309(j) of the Communications Act—Competitive Bidding*, Second Report and Order, 9 FCC Rcd 2348, 2388, para. 226 (1994).

¹⁸⁰ See *id.*; 47 CFR § 1.2109(d).

¹⁸¹ *Amendment of Parts 0 and 1 of the Commission’s Rules; Implementation of the Debt Collection Improvement Act of 1996 and Adoption of Rules Governing Applications or Requests for Benefits by Delinquent Debtors*, Report and Order, 19 FCC Rcd 6540 (2004) (implementing Pub. L. No. 104-134, 110 Stat. 1321, 1358 (1996)) (*Debt Collection Report and Order*); 47 CFR Part 1, Subpart O.

¹⁸² 47 CFR § 1.1910(b)(2).

¹⁸³ Parties familiar with spectrum license competitions should note that the stricter spectrum license application rules supersede the Commission’s red light rules in the context of a spectrum license competition. See 47 CFR § 1.1902(f). No corresponding provision applies with respect to the Stage 2 Competition, however. Accordingly, the Commission’s standard red light rules will apply.

application by any entity found to be delinquent in its debt to the Commission.¹⁸⁴

117. Specifically, a red-lighted applicant seeking to participate in the Stage 2 Competition must pay any debt(s) associated with the red light prior to filing its application. If an applicant has not resolved its red light issue(s) prior to filing, its application will be deemed incomplete. Bureau staff will not process the applicant's Stage 2 application, and the applicant will be deemed not qualified to apply for Stage 2 support.

118. Potential applicants for the Stage 2 Competition should review their own records, as well as the Commission's Red Light Display System (RLD), to determine whether they owe any non-tax debt to the Commission and should try to resolve and pay any outstanding debt(s) prior to submitting a application. The RLD enables a party to check the status of its account by individual FCC Registration Numbers (FRNs) and links other FRNs sharing the same Tax Identification Number (TIN) when determining whether there are outstanding delinquent debts. The RLD is available at <http://www.fcc.gov/redlight/>. Additional information is available at https://www.fcc.gov/debt_collection/.

119. Additionally, we recognize that a Stage 2 Competition applicant may incur debt to the Commission after it files its application and may fail to pay that debt when due. An applicant should note that the Commission will conduct additional red light checks prior to authorizing Stage 2 support. We therefore encourage qualified applicants to continue to review their own records as well as the RLD periodically during the Stage 2 Competition and to resolve and pay all outstanding debts to the Commission as soon as possible. The Commission will not authorize any winning applicant to receive Stage 2 support until its red light issues have been resolved.

G. USF Debarment

120. The Commission's rules provide for the debarment of those convicted of or found civilly liable for defrauding the high-cost support program.¹⁸⁵ Stage 2 Competition applicants are reminded that those rules apply with equal force to the Stage 2 Competition.

III. EVALUATING STAGE 2 COMPETITION APPLICATIONS AND PROPOSALS

A. Evaluation of Applications

1. Evaluation Process Overview

121. We strongly encourage each applicant to carefully review its entire application, including specific proposals for each geographic area, for completeness and accuracy. Following an application's submission to the Commission, an applicant is not afforded any opportunity to cure deficiencies or make major modifications to its competitive proposal that may affect Commission staff's ultimate scoring of proposals. However, the Bureau may request additional information from applicants to facilitate its review of underlying applications.

122. Once the deadline to submit an application has passed, Bureau staff will determine whether each applicant has complied with the application requirements and provided all information concerning its competitive proposal(s). The Bureau will issue a public notice with each applicant's proposal status identifying (1) those that are complete and (2) those that are incomplete or deficient. Eligible applicants that submit complete proposals will be reviewed as part of the Stage 2 Competition for the Territories consistent with the methodology prescribed by the *PR-USVI Stage 2 Order*.

123. The Bureau will select only one winner per geographic area in the Territories. The Bureau staff will score the applications using at least two independent reviewers for each application who

¹⁸⁴ 47 CFR § 1.1910(b)(2).

¹⁸⁵ 47 CFR § 54.8.

will not communicate about the contents or merits of the applications prior to issuing a final score. Each reviewer will score separately, and the final overall score for each competitive proposal will be the average score of the proposal based on all scores from reviewers.¹⁸⁶ There will be no public comment period on competitive proposals submitted in the Stage 2 Competition.¹⁸⁷

2. Overall Scoring and Weighting

124. Bureau staff will apply three objective factors in scoring and selecting winning applicants based upon information provided in each applicant's competitive proposal for a specific geographic area: (1) price per location; (2) network performance, including speed, latency, and usage allowance; and (3) network resilience and redundancy. For administrative simplicity in evaluating comprehensive proposals, applicants shall provide this information in a Microsoft Excel or Access format using Schedule B to the Application Form for each geographic area it seeks Stage 2 support.

125. Bureau staff will evaluate each geographic area contained in an applicant's competitive proposal based on a 270-point scale, as shown in the table below and allocated as follows: 100 points for price per location, 90 points for network performance, and 80 points for network resilience and redundancy. An applicant will be assigned a specific point value in each category, and it will receive a final overall score, calculated as the average of all scores from Commission staff for each geographic area for which it seeks support. Price per location will be given the greatest weight; however, a proposal for a network with top-notch performance and resilience and redundancy can prevail over a proposal for a less expensive but less robust and resilient network to encourage applicants to deploy high-performing, storm-hardened networks. The applicant with the lowest final overall point score out of a total of 270 possible points for a geographic area will win support for that area. In the event of a tied score for a geographic area, the Bureau will select the competitive proposal with the lowest price per location.

Table 1 — Overall Scoring

Overall Scoring	Points
Price Per Location	100
Network Performance	90
Network Resilience and Redundancy	80
Total	270

3. Price Per Location

126. We will use the Proposal Price submitted by applicants in their Application Form to determine their scores for price per location. The reserve price for each geographic area is the maximum amount that an applicant may commit to accept in its proposal. An applicant who proposes to accept the reserve price for a geographic area will receive the highest score of 100 points for price per location category. Unlike in the multi-round CAF II reverse auction previously used by the Commission, the competitive process here is only a single round, so applicants must provide their best price possible in the first instance.

127. We will subtract one point from the high score of 100 for each percentage point the Proposal Price is below the reserve price, as shown in the Table 2 below. Applicants may submit a Proposal Price below the reserve price to the nearest hundredth of one percent. In such cases, the Bureau

¹⁸⁶ *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9134-35, para. 41.

¹⁸⁷ *Id.*

will round the percentage to the nearest whole percentage for the purpose of scoring. In the event two applicants have equal overall final scores, the applicant with the lowest Proposal Price will be selected the winning applicant. For example, if an applicant commits to a Proposal Price that is 10.55 percent less than the reserve price, the applicant will receive an 11-point reduction from the possible 100 points. In the event a second applicant submits a Proposal Price for the same geographic area that is 10.75 percent less than the reserve price, thereby also receiving an 11-point reduction, and has the same point total as the first applicant in every other respect, this later applicant would be the winning bidder because its Proposal Price would be less than the former applicant, assuming the final overall score for both applicants' proposals were equal. Thus, this single-round competitive process rewards applicants to reveal their best price to increase the likelihood of being the winning applicant.

Table 2 — Price Per Location Scoring

Price	Assigned Points
Reserve Price	100
1%-100% Below Reserve Price	-1 point for each percentage below reserve

4. Network Performance

128. In the *PR-USVI Stage 2 Order* the Commission established three tiers for a combination of network speed and usage allowances, and two tiers for network latency, as reflected in Table 3 below. We require applicants to commit to the deployment of a network capable of providing a minimum upload and download speeds of at least 25/3 Mbps with at least 200 gigabytes (GB) of monthly data usage or a usage allowance that reflects the average usage of a majority of fixed broadband customers, using Measuring Broadband America data or a similar data source, whichever is greater. For each geographic area the applicant seeks support, the applicant specifies the specific speed, usage, and latency in Schedule B of the Application Form. We do not require an applicant to propose the same network performance measures for each geographic area it proposes to provide voice and broadband service in the territory.

129. Applicants that propose to meet these minimum network speed and usage requirements will be assigned the maximum 50 points allotted for this category.

130. To promote the deployment of advanced networks and access to quality services, we provide point reductions only by meeting specific performance metrics. Applicants will be given a points reduction if its proposed network speed and data usage is greater than or equal to speeds of 100/20 Mbps and greater than or equal to 2 TB of monthly data usage. Staff will assign 25 points out of a possible 50 points to applicants that commit to deploy networks meeting or exceeding these specified speeds and minimum data usage. And staff will assign zero points only if an applicant's proposal meets or exceeds speeds of 1 Gbps/500 Mbps with at least 2TB for monthly usage allowance. Unlike the price per location category, applicants do not receive incremental decreases in assigned points for increases in speed or monthly data usage allowance that are less than those specified for the next performance tier.

131. All applicants must provide services with a maximum roundtrip broadband and voice latency of ≤ 750 milliseconds (ms) or less, but we will give preference to applicants with low-latency broadband and voice at or below 100 ms as shown in Table 4 below. Staff will assign high-latency commitments the full 40 points for this category and assign zero points for a proposal with low-latency. Similar to speed and usage, applicants do not receive incremental point reductions for latency performance that are between 750 ms and 100 ms.

Table 3 — Network Performance Scoring (1 of 2) — Speed/Usage

Speed	Monthly Usage Allowance	Assigned Points
≥ 25/3 Mbps	≥ 200 GB or U.S. median, whichever is higher	50
≥ 100/20 Mbps	≥ 2 TB	25
1 Gbps/500 Mbps	≥ 2 TB	0

Table 4 — Network Performance Scoring (2 of 2) — Latency

Latency	Requirement	Assigned Points
Low	≤ 100 ms	0
High	≤ 750 ms	40

5. Network Resiliency and Redundancy

132. Bureau staff will evaluate resiliency and redundancy by assigning points for a few key, objective criteria specified in Schedule B of the Application Form. Bureau staff will award a points preference based on the level of resilience an applicant proposes to build into its network and/or the redundancy or diversity it proposes to create in its network as measured in network miles.

133. Applicants must provide data concerning its proposed network for each geographic area for evaluation and scoring. Applicants must provide the total network miles within the geographic area. Applicants must further provide the amount of its total network miles that consists of buried fiber, aerial fiber using standard poles, aerial fiber using composite high-wind rated poles, and fixed wireless technology. An applicant will receive a score for network resilience based on the percentage of these technologies, as measured by network miles, that comprise the entire network within the geographic area. We assign the full 60 points for this category to a network comprised entirely of aerial fiber using standard poles, and provide the greatest preference, with least amount of points, to an all-buried fiber network. Bureau staff will assign as few as zero points for a network resiliency solution that relies on all-buried fiber.

134. Finally, Bureau staff will assign up to 20 points depending on whether an applicant proposes a redundancy solution that includes a backup network or path diversity. Network diversity means maintaining a separate communications network that can provide services should the first type fail. Path diversity means that there is an alternate route to achieving communications within the network. Specifically, staff will assign no points for a proposal that includes either a backup network or path redundancy, and staff will assign 20 points to a proposal that includes neither a backup network or path redundancy. Applicants must specify the amount of network miles within the geographic area that include a backup network, path diversity, or both. Bureau staff will not deduct points for satellite providers for redundancy simply based on the availability of a backup satellite path. Satellite providers will receive a reduction in points based on the percentage of locations that it intends to reach with a backup network. Although scoring will equally reward a carrier for building in either network or path diversity, we encourage carriers to build both into their network wherever possible as a best practice for building a storm-hardened network.

Table 5 — Network Resilience and Redundancy Scoring

Network Resilience and Redundancy Measures	Assigned Points
Aerial wireline deployment	60
Satellite; fixed wireless end user location connection; microwave backhaul; aerial wireline deployment using high-wind rated composite poles	40-60 sliding scale
Underground fiber	0-60 sliding scale
Backup network/path diversity	0-20 sliding scale

B. Confidentiality and Availability of Competition Information

135. All applications must be submitted confidentially and will not be made public prior to winning bidders becoming authorized to receive support.

C. Default Payment Requirements

1. Forfeiture

136. Any Stage 2 Competition winning applicant will be subject to a forfeiture in the event of a default before it is authorized to begin receiving support.¹⁸⁸ A winning applicant will be considered in default and will be subject to forfeiture if it fails to meet the document submission deadlines, is found ineligible or unqualified to receive Stage 2 support by the Bureau, and/or otherwise defaults on its winning applications or is disqualified for any reason prior to the authorization of support. Any such determination by the Bureau shall be final, and a winning applicant shall have no opportunity to cure through additional submissions, negotiations, or otherwise. Agreeing to such payment in the event of a default is a condition for participating in application in the Stage 2 Competition.¹⁸⁹

137. The Commission established a base forfeiture of \$3,000 per census block group within a geographic area for any applicant that (i) fails to meet the document submission deadlines, (ii) is found ineligible or unqualified to receive support by the Bureau, or (iii) otherwise defaults on its bid or was disqualified for any reason prior to receiving authorization for support. The forfeiture amount resulting from an applicant's default prior to receiving authorization for support will be subject to adjustment based on the criteria set forth in the Commission's forfeiture guidelines.¹⁹⁰

138. A winning applicant will be subject to the base forfeiture for each separate violation of the Commission's rules.¹⁹¹ The Commission defined a violation as any form of default with respect to the geographic area. In other words, there shall be separate violations for each winning geographic areas in

¹⁸⁸ *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9152-53, para. 81.

¹⁸⁹ This forfeiture payment satisfies the requirements of section 1.21004(b) of the Commission's rules with respect to default payments. 47 CFR § 1.21004(b).

¹⁹⁰ *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9152-53, para. 81. In determining the final amount of the forfeiture, consistent with the Commission's rules, the Enforcement Bureau shall take into account the nature, circumstances, extent, and gravity of the violations. 47 CFR § 1.80(b)(8). 47 CFR § 1.80(b)(8), note to paragraph (b)(8). Thus, for example, if a municipio contains 33 census block groups, the base forfeiture as to that municipio would be \$99,000. *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9153, para. 81 n.296.

¹⁹¹ *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9153, para. 82.

an application.¹⁹² To ensure that the amount of the base forfeiture is not disproportionate to the amount of a winning applicant's application, the Commission decided to limit the total base forfeiture to five percent of the applicant's total assigned support for the application for the support term.¹⁹³

139. In the event of default, the Bureau will notify and identify the next-in-line applicant as the new winning applicant.¹⁹⁴ The new winning applicant will have all the same obligations for submitting additional information and filings and obligations as did the initial winning applicant.

2. Non-Compliance Measures Post-Authorization

140. An applicant that has received notice from the Commission that it is authorized to receive Stage 2 support will be subject to non-compliance measures if it fails or is unable to meet its minimum coverage requirement, other service requirements, or fails to fulfill any other term or condition of Stage 2 support.¹⁹⁵ As described in the *PR-USVI Stage 2 Order*, these measures will scale with the extent of non-compliance, and include additional reporting, withholding of support, support recovery, and drawing on the support recipient's letter of credit if the support recipient cannot pay back the relevant support by the applicable deadline.¹⁹⁶ A support recipient may also be subject to other sanctions for non-compliance with the terms and conditions of Stage 2 support, including, but not limited to, potential revocation of ETC designations and suspension or debarment.¹⁹⁷ Additionally, a support recipient will be subject to any non-compliance measures in conjunction with a methodology for high-cost support recipients to measure and report speed and latency performance to fixed locations.

D. Closing Conditions

141. The Stage 2 Competition window for applicants will close on a date to be announced by the Bureau. No further applications will be accepted after that time. To avoid concerns related to electronic or technical errors, we encourage applicants to submit ahead of this time and date. The Bureau will confirm receipt via electronic mail of each application received by the deadline.

E. Competition Announcements

142. The Bureau will make announcements as necessary to report or request information from applicants during the Stage 2 Competition. Announcements will be available at the FCC's website.

¹⁹² *Id.* A winning applicant would violate the Commission's rules for each of the CBGs within the geographic area assigned in its defaulting application. If a winning applicant defaults on an application that includes 10 CBGs, that entity could be subject to a base forfeiture of \$30,000 (10 CBGs multiplied by the base forfeiture of \$3,000).

¹⁹³ *Id.* This would occur in situations where the dollar amount associated with the application is low. For example, assume Applicant A's winning application includes 100 CBGs for \$100,000 over the ten-year support term. We would impose a base forfeiture of \$5,000 (5 percent of \$100,000) because otherwise the base forfeiture would be \$300,000 (\$3,000 x 100 CBGs), which is three times the entire application amount. In contrast, if Applicant B's winning application includes 100 CBGs for \$7,000,000 over the support term, we would impose a base forfeiture of \$300,000 (\$3,000 x 100 CBGs), which is 4.3 percent of the total application. The Commission, however, expressly stated that the five percent limit to the base forfeiture would not limit upward adjustments for egregious misconduct. *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9153, para. 82 n.297.

¹⁹⁴ *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9153-54, para. 84.

¹⁹⁵ 47 CFR §§ 54.315(c)(4), 54.320.

¹⁹⁶ *Id.* §§ 54.315(c)(4), 54.320; *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9150, para. 74; *see also December 2014 Connect America Order*, 29 FCC Rcd at 15694-701, paras. 142-57.

¹⁹⁷ 47 CFR § 54.320.

F. Competition Results

143. The Bureaus will determine the winning applicants as described elsewhere in this Public Notice and will announce the results in a public notice. The Bureau will make the final overall application scores for all applicants available for public viewing after winning applicants are authorized to receive support. Winning applicants will then be required to complete the necessary actions described in this Public Notice to become authorized for support.

IV. POST-COMPETITION PROCEDURES**A. Authorization Public Notice**

144. After the Stage 2 Competition has ended, the Bureau will issue a public notice declaring the competition closed, identifying the winning applicants, and establishing the deadline for submission of further information for authorizing support.¹⁹⁸ Winning applicants will file the information using ECFS and e-mail to the Bureau. Details regarding the submission requirements will be provided in the public notice. After the information has been reviewed and is considered to be complete, including the Disaster Preparation and Response Plan, and the winning applicant has submitted an acceptable letter of credit and accompanying Bankruptcy Code opinion letter as described below, a public notice will be released authorizing the winning applicant to receive Stage 2 support.¹⁹⁹

B. Eligible Telecommunications Carrier Designation and Certification

145. Within 60 days after the release of the winning applicants public notice, a winning applicant is required to submit appropriate documentation of its high-cost ETC designation in all the areas for which it will receive support.²⁰⁰ Appropriate documentation should include the original designation order, any relevant modifications, e.g., expansion of service area or inclusion of wireless, along with any name-change orders. An applicant is also required to provide documentation showing that the designated areas (e.g., census blocks, wire centers, etc.) cover the relevant winning application areas so that it is clear that the winning applicant has high-cost ETC status in each winning application area.²⁰¹ Such documentation could include maps of the applicant's ETC designation area, map overlays of the winning application areas, and/or charts listing designated areas. Additionally, an applicant is required to submit a letter with its documentation from an officer of the company certifying that the applicant's ETC designation for each state covers the relevant areas where the applicant will receive support.²⁰²

C. Letter of Credit and Bankruptcy Code Opinion Letter

146. After an application has been reviewed and is considered to be complete, the Commission will issue a public notice identifying each winning applicant that may be authorized to receive Stage 2 support. No later than 10 business days after the release of the public notice, an applicant must obtain an irrevocable standby letter of credit at the value specified in section 54.1508(b) from a bank acceptable to the Commission as set forth in section 54.1508(c) for each territory where the applicant is seeking to be

¹⁹⁸ *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9135, para. 42.

¹⁹⁹ An authorized applicant is called a "support recipient" or "Stage 2 support recipient."

²⁰⁰ 47 CFR § 54.315(b)(5). A Lifeline-only ETC designation is not sufficient; the applicant must obtain a high-cost ETC designation in areas where it seeks to be authorized to receive Stage 2 support.

²⁰¹ *Phase II Auction Order*, 31 FCC Rcd at 5999, para. 141.

²⁰² 47 CFR § 54.315(b)(5); *Phase II Auction Order*, 31 FCC Rcd at 5999, para. 141.

authorized.²⁰³ The letter of credit must be issued in substantially the same form as set forth in the model letter of credit provided in Appendix B of this Public Notice.²⁰⁴

147. In addition, a winning applicant will be required to provide with the letter of credit an opinion letter from legal counsel clearly stating, subject only to customary assumptions, limitations, and qualifications, that, in a proceeding under the Bankruptcy Code, the bankruptcy court would not treat the letter of credit or proceeds of the letter of credit as property of the applicant's bankruptcy estate, or the bankruptcy estate of any other applicant-related entity requesting issuance of the letter of credit, under section 541 of the Bankruptcy Code.²⁰⁵

1. New and Renewed Letter of Credit

148. A winning application receiving Stage 2 support may obtain a new or renewed Letter of Credit after successfully achieving its deployment milestones.²⁰⁶ When a winning applicant first obtains a letter of credit, it must be at least equal to the amount of the first year of authorized support.²⁰⁷ Before the winning applicant can receive its next year's support, it must modify, renew, or obtain a new letter of credit to ensure that it is valued at a minimum at the total amount of money that has already been disbursed plus the amount of money that is going to be provided in the next year.²⁰⁸

149. The Commission found that, as a recipient makes progress towards building its network, it is appropriate to modestly reduce the value of the letter of credit in an effort to reduce the cost of maintaining a letter of credit as the recipient meets certain service milestones.²⁰⁹ Specifically, once an entity meets the 60 percent service milestone that entity may obtain a new letter of credit or renew its existing letter of credit so that it is valued at 90 percent of the total support amount already disbursed plus the amount that will be disbursed the next year.²¹⁰ Once the entity meets the 80 percent service milestone that entity may obtain a new letter of credit valued at 80 percent of the total support amount already disbursed plus the amount that will be disbursed the next year.²¹¹ The letter of credit must remain open until the recipient has certified it has deployed broadband and voice service meeting the Commission's requirements to 100% of the required number of locations, and USAC has verified that the entity has fully deployed.²¹²

²⁰³ 47 CFR § 54.1508(b), (c). An applicant may obtain multiple letters of credit for a state. However, because compliance is determined at the state-level, the Bureau will authorize a draw on all the letters of credit covering all the applications in a state if a support recipient defaults. 47 CFR § 54.1508(b), (e).

²⁰⁴ See Appendix B. See also *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9151, 9201-05, para. 76 & n.281, Appx. C.

²⁰⁵ 47 CFR § 1508(d); *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9152, para. 78; see also 11 U.S.C. § 541; 47 CFR § 54.315(c)(3).

²⁰⁶ 47 CFR § 1508(b); *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9152, paras. 79-80.

²⁰⁷ 47 CFR § 1508(b); *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9152, para. 79.

²⁰⁸ *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9152, para. 79.

²⁰⁹ *Id.*

²¹⁰ 47 CFR § 1508(b)(1); *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9152, para. 80.

²¹¹ 47 CFR § 1508(b)(2); *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9152, para. 80.

²¹² 47 CFR § 1508(a); *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9152, para. 80.

D. Location Adjustment Process**1. Submission Due Date and Format for Submission**

150. We expect the adjustment window to open on or about one year following the notice announcing Stage 2 winning applicants. The Bureau will announce the specific dates of the location adjustment submission filing window and stakeholder comment period in the public notice announcing the winning Stage 2 applicants. By the closing date, if a winning applicant cannot identify actual locations totaling the number announced in the Reserve Price Public Notice on December 19, 2019, it must file its proposed actual location number and all relevant supporting information, including maps, studies, certifications, documents, and any other evidence with the Bureau via electronic mail at ConnectAmerica@fcc.gov. The applicant must include geolocation data (indicating the latitude/longitude and address) for each actual location it can identify and for each winning area. An applicant must also include a certification for its assertion. The information and evidence submitted will be subject to potential audit.²¹³

151. If a winning applicant does not need to adjust its deployment obligation, it must file a certification with the Bureau by the close of the window certifying to that effect and accepting the number of locations the Bureau announced in the Reserve Price Public Notice on December 19, 2019,²¹⁴ as its location obligation.²¹⁵

2. Stakeholder Comment Period

152. Following the window closing date, relevant stakeholders will have 30 days to review and comment on the information submitted by the winning applicants. There will be no reply comment period for the winning applicants.²¹⁶

3. Adjustment Order

153. After the comment period is closed, Bureau staff will review all evidence submitted by the support recipients and all relevant comments. The Bureau will then issue an order addressing the recipients' showings, which will establish and announce the final location obligations for each recipient.²¹⁷

E. Five-Year Review

154. A support recipient may choose to participate in the voluntary five-year review process to reassess its deployment obligations.²¹⁸ As directed, the Bureau will release a public notice detailing the five-year review process no later than the beginning of the fifth year of Stage 2 support to provide recipients an opportunity to request reassessment of their deployment obligations. We expect any request for reassessment will be accompanied by specific information, documents, evidence and data upon which the Bureau can make an informed decision. This reassessment will allow the Bureau to determine whether to adjust any deployment requirements based on newly available data or changed circumstances such as disruptive disasters, altered subscribership or significantly decreased revenue due to population

²¹³ *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9144-45, paras. 63-65. See also *Auction Locations Adjustment Public Notice*; *Auction Locations Adjustment Order*.

²¹⁴ *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9144-45, paras. 63-65; *PR-USVI Reserve Price PN*.

²¹⁵ *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9144-45, paras. 63-65.

²¹⁶ *Id.*

²¹⁷ *Id.*

²¹⁸ *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9145-46, para. 66.

shifts.²¹⁹ In the five-year review process public notice, the Bureau will establish a public comment period for any support recipient requesting reassessment, which will allow public review of the documentation, data, and evidence put forward to support the request. Following the close of the public comment period, the Bureau will review and evaluate the record for each requesting support recipient. If, based on the Bureau's review, an adjustment of deployment obligations or locations is warranted for any winning applicant, the Bureau will announce those changes in a public notice.²²⁰

F. Updating the Disaster Preparation and Response Plan

155. As indicated above, a winning applicant has the obligation to provide the Bureau with an updated DPRP within ten business days of making any material change, and for as long as it receives Stage 2 support. The failure to update the DPRP may result in withholding of support or disqualification from future participation in the Commission's competitive competitions.²²¹

G. Mandatory Filing in Disaster Information Reporting System (DIRS)

156. All Stage 2 support recipients are required to perform DIRS reporting when the system is activated.²²² The Commission will determine whether to activate DIRS in coordination with DHS and FEMA, and will announce the areas that will be covered via public notice and electronic mail.²²³ Following normal Commission protocol, we will continue to activate DIRS and notify providers of its reporting schedule, typically in advance of an expected impending disaster event or immediately after such a disaster. Also pursuant to normal Commission protocol, DIRS reporting obligations begin at the time of DIRS activation, which may be immediately before, at the onset of, or immediately after a disaster event, with reports due each time a provider's restoration status changes.²²⁴ We note that support recipients are not required to report daily via DIRS when there is no change in restoration status, and instead are only required to make updates on changes in restoration status when they occur.²²⁵ The only difference from ordinary Commission protocol is that DIRS reporting is mandatory for Stage 2 support

²¹⁹ *Id.* at 9146, para. 66, n. 244.

²²⁰ *Id.* at 9145-46, para. 66.

²²¹ 47 CFR § 54.1515(c); *see infra* Sec. II.C.4.i, paras. 85-88. For example, an applicant may be precluded from participation in a Uniendo a Puerto Rico Fund and Connect USVI Fund Stage 3 competition for mobile support. *See PR-USVI Stage 2 Order*, 34 FCC Rcd at 9168, para. 117 (indicating that the long term goal for the Territories includes a Stage 3 competition for mobile support).

²²² 47 CFR § 54.1515(d); *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9176, paras. 138-140. The mandatory DIRS reporting scheme described herein is supplemental to, and does not replace or obviate, existing non-DIRS reporting requirements, including the Commission's Network Outage Reporting System (NORS) reporting requirements. A provider's obligation to provide NORS reports is temporarily waived when it provides DIRS reports under normal Commission protocol. *See, e.g., Public Safety & Homeland Security Bureau Announces the Activation of the Disaster Information Reporting System for Puerto Rico and U.S. Virgin Islands in Response to Hurricane Maria*, Public Notice, 32 FCC Rcd 6992 (PSHSB 2017) (suspending NORS reporting obligations in response to Maria for providers participating in DIRS). This remains true for Stage 2 funding recipients subject to mandatory DIRS reporting.

²²³ *See* Federal Communications Commission, Public Safety, Cybersecurity and Communications Reliability Division, Disaster Information Reporting System, available at <https://www.fcc.gov/general/disaster-information-reporting-system-dirs-0> (last visited Nov. 12, 2019).

²²⁴ Information regarding how to access and use the DIRS system can be found in the PSHSB DIRS User Manual. Federal Communications Commission, Disaster Information Reporting System (DIRS) User Manual, Version 5 (Feb. 24, 2014), available at https://transition.fcc.gov/pshs/disaster/disaster_manual.pdf (last accessed Nov. 12, 2019).

²²⁵ *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9177, para. 140.

recipients for as long as a recipient is receiving Stage 2 support.

157. Stage 2 funding recipients that fail to meet this mandatory DIRS reporting obligation may be subject to penalties and sanctions through the withholding of Stage 2 funds and/or disqualification from participating in future Stage 3 mobile support.²²⁶ However, we will not impose a penalty or sanctions if reporting deadline(s) cannot be met for reasons reasonably beyond a participant's control (e.g. loss of communications that precludes access to DIRS).²²⁷ In that case, we require instead that providers begin and/or resume DIRS reporting according to the reporting schedule as soon as they are reasonably able to do so.

V. PROCEDURAL MATTERS

A. Legal Authority

158. We establish procedures for the Stage 2 Competition pursuant to the authority contained in sections 1, 2, 4(i), 214, 254, 303(r), 403, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 214, 254, 303(r), 403, and 405, and sections 1.1, 1.3, 1.425 and 1.429 of the Commission's rules, 47 CFR §§ 1.1, 1.3, 1.425 and 1.429.

B. Paperwork Reduction Act Analysis

159. This document implements the information collections adopted in the *PR-USVI Stage 2 Order* and does not contain any additional information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. The Commission is currently seeking PRA approval for information collections related to the PR-USVI Stage 2 Competition application process. Therefore, this document does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198.²²⁸

C. Supplemental Regulatory Flexibility Analysis

160. In the *PR-USVI Stage 2 Order*, the Commission conducted a Final Regulatory Flexibility Analyses (FRFAs) as required by the Regulatory Flexibility Act of 1980, as amended (RFA).²²⁹ We anticipated that the Order will not affect a substantial number of carriers and, therefore, certified the Order would not affect a substantial number of small entities.²³⁰

161. This Public Notice establishes procedures for the Connect America Uniendo a Puerto Rico Fund and Connect USVI Fund Stage 2 Competition (PR-USVI Stage 2 Competition or Stage 2 Competition). The procedures established in this Public Notice are consistent with the *PR-USVI Stage 2 Order* and FRFA is not required for this Public Notice.

D. Congressional Review Act

162. The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that these rules are "non-major" under the Congressional Review Act, 5 U.S.C. § 804(2). The Commission will send a copy of this Public Notice to Congress and the Government Accountability Office pursuant to 5 U.S.C. § 801(a)(1)(A).

²²⁶ *Id.* at 9176-77, para. 139.

²²⁷ *Id.* In such circumstances, a carrier would be excused from mandatory DIRS reporting.

²²⁸ *See* 44 U.S.C. 3506(c)(4).

²²⁹ *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9186, paras. 163-166.

²³⁰ *Id.* at 9186, para. 165.

VI. CONTACT INFORMATION

163. Contact Information Table:

FCC Email & Webpages	ConnectAmerica@fcc.gov http://www.fcc.gov
General Uniendo a Puerto Rico Fund and Connect USVI Fund Questions	Wireline Competition Bureau Telecommunications Access Policy Division Alex Minard Rebekah Douglas Dangkhoa Nguyen (202) 418-0660
Press Information	Office of Media Relations, (202) 418-0500
FCC Forms	(800) 418-3676 (outside Washington, DC) (202) 418-3676 (in the Washington area) http://www.fcc.gov/formpage.html
Accessible Formats Braille, large print, electronic files, or audio format for people with disabilities	Consumer and Governmental Affairs Bureau (202) 418-0530 or (202) 418-0432 (TTY) fcc504@fcc.gov
Small Businesses Additional information for small and disadvantaged businesses	Office of Communications Business Opportunities (202) 418-0990 http://www.fcc.gov/ocbo/

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Chief
Wireline Competition Bureau

APPENDIX A
Spectrum Chart

Spectrum Band/Service	Paired Licensed		Unpaired Licensed	Unlicensed
	Uplink Freq. (MHz)	Downlink Freq. (MHz)	Uplink & Downlink Freq. (MHz)	Unlicensed (MHz)
600 MHz	663-698	617-652		
Lower 700 MHz	698-716	728-746	716-728 (Downlink only)	
Upper 700 MHz	776-787	746-757		
800 MHz SMR	813.5/817-824	858.5/862-869		
Cellular	824-849	869-894		
Broadband PCS	1850-1915	1930-1995		
AWS-1	1710-1755	2110-2155		
AWS (H Block)	1915-1920	1995-2000		
AWS-3	1755-1780	2155-2180	1695-1710 (Uplink only)	
AWS-4			2000-2020 2180-2200 (Downlink only ¹)	
BRS/EBS			2496-2690	
WCS	2305-2315	2350-2360	2315-2320 2345-2350	
CBRS (3.5 GHz)			3550-3700	
UMFUS (terrestrial)			24,250-24,450 24,750-25,250 27,500-28,350 37,600-38,600 38,600-40,000 47,200-48,200	
70-80-90 GHz unpaired & 70-80 GHz paired (point-to-point terrestrial)	Point-to-Point Pairs for 70-80 GHz 71,000-76,000 with 81,000-86,000		71,000-76,000 81,000-86,000 92,000-94,000 94,100-95,000	

(chart continued on next page)

¹ As a result of licensee's election pursuant to Memorandum Opinion and Order, DA 13-2409, in WT Docket No. 13-225

TV White Spaces				54-72 76-88 174-216 470-698
900 MHz				902-928
2.4 GHz				2400-2483.5
5 GHz				5150-5250 5250-5350 5470-5725 5725-5850
24 GHz				24,000-24,250
57-71 GHz				57,000 – 71,000
Ku Band (satellite)	12,750-13,250 14,000-14,500	10,700-12,700		
Ka Band (satellite)	27,500-30,000	17,700-20,200		
V Band (satellite)	47,200-50,200 50,400-52,400	37,500-42,000		

Abbreviations

AWS	Advanced Wireless Services
BRS/EBS	Broadband Radio Service / Education Broadband Service
CBRS	Citizens Broadband Radio Service
PCS	Personal Communications Service
SMR	Specialized Mobile Radio
UMFUS	Upper Microwave Flexible Use Service
WCS	Wireless Communications Service

APPENDIX B

Illustrative Form of Letter Of Credit

[Subject to Issuing Bank Requirements]

No. _____

[Name and Address of Issuing Bank]

[Date of Issuance]

[AMOUNT]

[EXPIRATION DATE]

BENEFICIARY

[USAC]

[Address]

LETTER OF CREDIT PROVIDER

[Winning Bidder Name]

[Address]

Ladies and Gentlemen:

We hereby establish, at the request and for the account of [Winning Applicant], in your favor, as required under the Report and Order, adopted on [June XX, 2019], issued by the Federal Communications Commission ("FCC") in the matter of [Connect America Fund, WC Docket 10-90, The Uniendo a Puerto Rico Fund and the Connect USVI Fund, WC Docket 18-143, and ETC Annual Reports and Certifications, WC Docket No. 14-58] (the "Order"), our Irrevocable Standby Letter of Credit No. _____, in the amount of [State amount of Letter of Credit in words and figures. NOTE: The amount of the Letter of Credit shall increase/additional letter(s) of credit shall be issued as additional funds are disbursed pursuant to the terms of the Order], expiring at the close of banking business at our office described in the following paragraph, on [the date which is ___ years from the date of issuance/ or the date which is one year from the date of issuance, provided the Issuing Bank includes an evergreen clause that provides for automatic renewal unless the Issuing Bank gives notice of non-renewal to USAC by a nationally recognized overnight delivery service, with a copy to the FCC, at least sixty days but not more than 90 days prior to the expiry thereof], or such earlier date as the Letter of Credit is terminated by [USAC] (the "Expiration Date"). Capitalized terms used herein but not defined herein shall have the meanings accorded such terms in the Order.

Funds under this Letter of Credit are available to you against your draft in the form attached hereto as Annex A, drawn on our office described below, and referring thereon to the number of this Letter of Credit, accompanied by your written and completed certificate signed by you substantially in the form of Annex B attached hereto. Such draft and certificates shall be dated the date of presentation or an earlier date, which presentation shall be made at our office located at [BANK ADDRESS] and shall be effected either by personal delivery or delivery by a nationally recognized overnight delivery service. We hereby commit and agree to accept such presentation at such office, and if such presentation of documents

appears on its face to comply with the terms and conditions of this Letter of Credit, on or prior to the Expiration Date, we will honor the same not later than the first banking day after presentation thereof in accordance with your payment instructions. Payment under this Letter of Credit shall be made by [check/wire transfer of Federal Reserve Bank of New York funds] to the payee and for the account you designate, in accordance with the instructions set forth in a draft presented in connection with a draw under this Letter of Credit.

Partial drawings are not permitted under this Letter of Credit. This Letter of Credit is not transferable or assignable in whole or in part.

This Letter of Credit shall be canceled and terminated upon receipt by us of the [USAC's] certificate purportedly signed by two authorized representatives of [USAC] in the form attached as Annex C.

This Letter of Credit sets forth in full the undertaking of the Issuer, and such undertaking shall not in any way be modified, amended, amplified or limited by reference to any document, instrument or agreement referred to herein, except only the certificates and the drafts referred to herein and the ISP (as defined below); and any such reference shall not be deemed to incorporate herein by reference any document, instrument or agreement except for such certificates and such drafts and the ISP.

This Letter of Credit shall be subject to, governed by, and construed in accordance with, the International Standby Practices 1998, International Chamber of Commerce Publication No. 590 (the "ISP"), which is incorporated into the text of this Letter of Credit by this reference, and, to the extent not inconsistent therewith, the laws of the State of New York, including the Uniform Commercial Code as in effect in the State of New York. Communications with respect to this Letter of Credit shall be addressed to us at our address set forth below, specifically referring to the number of this Letter of Credit.

[NAME OF BANK]

[BANK SIGNATURE]

ANNEX A

Form of Draft

To: [Issuing Bank]

DRAWN ON LETTER OF CREDIT No: _____

AT SIGHT

PAY TO THE ORDER OF [USAC] BY [CHECK/WIRE TRANSFER OF FEDERAL
RESERVE BANK OF NEW YORK]

FUNDS TO: _____

Account (_____)

AS [UNIENDO A PUERTO RICO FUND OR CONNECT USVI FUND
REPAYMENT]

[AMOUNT IN WORDS] DOLLARS AND NO/CENTS

[\$[AMOUNT IN NUMBERS]

Universal Service Administrative Company

By: _____

Name:

Title:

ANNEX B

Draw Certificate

The undersigned hereby certifies to [Name of Bank] (the “Bank”), with reference to (a) Irrevocable Standby Letter of Credit No. [Number] (the “Letter of Credit”) issued by the Bank in favor of the Universal Service Administrative Company (“USAC”) and (b) [paragraph ___] of the Report and Order, adopted on [June XX, 2019], issued by the Federal Communications Commission in the matter of [Connect America Fund, WC Docket 10-90, The Uniendo a Puerto Rico Fund and the Connect USVI Fund, WC Docket 18-143, and ETC Annual Reports and Certifications, WC Docket No. 14-58] (the “Order”), pursuant to which [Name of Winning Bidder] (the “LC Provider”) has provided the Letter of Credit (all capitalized terms used herein but not defined herein having the meaning stated in the Order), that:

[The [Name of Winning Applicant] has [describe the event that triggers the draw], and is evidenced by a letter signed by the Chief of the [Wireline Competition Bureau] or [his/her] designee, dated __, 20__, a true copy of which is attached hereto.] Accordingly, a draw of the entire amount of the Letter of Credit No. _____ is authorized.]

OR

[USAC certifies that given notice of non-renewal of Letter of Credit No. _____ and failure of the account party to obtain a satisfactory replacement thereof, pursuant to the Order, USAC is entitled to receive payment of \$ _____ representing the entire amount of Letter of Credit No. _____.]

IN WITNESS WHEREOF, the undersigned has executed this certificate as of [specify time of day] on the ___ day of _____, 20__.

Universal Service Administrative Company

By: _____

Name:

Title:

ANNEX C

Certificate Regarding Termination of Letter of Credit

The undersigned hereby certifies to [Name of Bank] (the “Bank”), with reference to (a) Irrevocable Standby Letter of Credit No. [Number] (the “Letter of Credit”) issued by the Bank in favor of the Universal Service Administrative Company (“USAC”), and (b) paragraph [] of the Report and Order adopted on [June XX, 2019], issued by the Federal Communications Commission (“FCC”) in the matter of [Connect America Fund, WC Docket 10-90, The Uniendo a Puerto Rico Fund and the Connect USVI Fund, WC Docket 18-143, and ETC Annual Reports and Certifications, WC Docket No. 14-58] (the “Order”), (all capitalized terms used herein but not defined herein having the meaning stated or described in the Order), that:

- (1) [include one of the following clauses, as applicable]
 - (a) The Order has been fulfilled in accordance with the provisions thereof; or
 - (b) [LC Provider/Winning Bidder] has provided a replacement letter of credit satisfactory to the FCC.
- (2) By reason of the event or circumstance described in paragraph (1) of this certificate and effective upon the receipt by the Bank of this certificate (countersigned as set forth below), the Letter of Credit is terminated.

IN WITNESS WHEREOF, the undersigned has executed this certificate as of the ____ day of _____, 20__.

Universal Service Administrative Company

By: _____
Name:
Title:

By: _____
Name:
Title:

COUNTERSIGNED:

Federal Communications Commission

By: _____
Name:
Its Authorized Signator

APPENDIX C

Disaster Preparation and Response Plan (DPRP)

Each recipient of Stage 2 support is responsible for a detailed Disaster Preparation and Response Plan describing and committing to the methods it will use, during the period in which it receives Stage 2 support, to prepare for and respond to disasters in Puerto Rico and/or the U.S. Virgin Islands according to five criteria: (1) Strengthening Infrastructure; (2) Ensuring Network Diversity; (3) Ensuring Backup Power; (4) Network Monitoring; and (5) Emergency Preparedness. These criteria are further defined below. Your detailed Disaster Preparation and Response Plan must include, for each criterion:

- a description of your commitments to maintain, improve or modify your facilities based on reasonably-selected best practices, checklists and industry standards;
- commitments that are auditable and your agreement to be subject to reasonable audit procedures; and
- identification of your employee official(s) responsible for management and compliance.

For each criterion, we have provided example best practices, checklists, and/or standards below. You may find it useful to consider and/or incorporate some or all of these materials in preparing your response. We do not endorse any of the specific examples below, but rather we simply provide them as examples that may prove useful. The support recipient should explain why it believes compliance with any specific standard it identifies will prove adequate to meet the criteria we set forth.

1. STRENGTHENING INFRASTRUCTURE

Please provide in your Disaster Preparation and Response Plan a description of methods and procedures that you have in place, or will soon have in place, to strengthen (storm harden) your infrastructure, including to be more likely to withstand Category 5 wind speeds and severe floods.

Description

Strengthening infrastructure refers to physically maintaining or changing your infrastructure to make it less susceptible to damage from extreme wind, flooding, flying debris and related disaster phenomena. This improves the durability and stability of infrastructure, making it better able to withstand the impacts of hurricanes and other weather events without sustaining major damage.

Example Best Practices, Checklists and/or Standards

The Alliance for Telecommunications Industry Solutions (ATIS) Network Reliability Steering Committee's (NRSC's) *Emergency Preparedness Checklist* (ATIS checklist) provides example techniques to strengthen infrastructure equipment. These relate to:

- assessing whether critical facilities, network equipment, and power connections are located in areas that are likely to flood;¹
- assessing whether there are mitigation plans implemented in sites located in flood prone areas (e.g., including the elevation of equipment platforms);²
- deploying high tensile strength aerial service wire;³
- negotiating a wider right-of-way to prevent trees from obstructing aerial cable;⁴

¹ ATIS NRSC, ATIS-0100019 Emergency Preparedness and Response Checklist at ref. no. 1.1.1 (2019), https://www.atis.org/01_committ_forums/nrsc/documents/.

² *Id.*

³ *Id.* at ref. no. 1.1.3.

⁴ *Id.* at ref. no. 1.1.4.

- designing the outside portion of a network to better withstand flooding and severe weather, and make restoration easier;⁵ and
- utilizing Closed Circuit Television (CCTV), water intrusion hardware, or aerial photography/video to allow remote viewing of critical facilities that may flood.⁶

2. NETWORK RESILIENCE

Please provide in your Disaster Preparation and Response Plan a description of methods and procedures that you have in place, or will soon have in place, to implement network resilience.

Description

Network resilience refers to the ability of your network facility to recover quickly from damage to its components or to any of the external systems on which it depends. Resilience-improving measures do not absolutely prevent damage; rather they enable your network facility to continue operating despite damage and/or promote a rapid return to normal operations when damage does occur. A technique for achieving resilience is to add diversity at critical places, *e.g.*, by providing redundant facilities and redundant routes.⁷

Example Best Practices, Checklists and/or Standards

The Federal Communications Commission's (FCC's) Security, Reliability and Interoperability Council (CSRIC) has issued a number of best practices that describe example techniques for ensuring network resilience. These include CSRIC Best Practice Nos. 11-9-0580 (applying redundancy and diversity to network elements), 11-9-0510 (managing critical Network Elements), 11-9-5113 (providing multiple cable entry points at critical facilities), 11-9-0566 (placing and maintaining networks over diverse interoffice transport facilities) and 11-9-0568 (establishing a routing plan for Public Safety Answering Points (PSAPs)).⁸

3. BACKUP POWER

Please provide in your Disaster Preparation and Response Plan a description of methods and procedures that you have in place, or will soon have in place, to implement backup power solutions.

Description

Network elements, particularly those located outdoors, are often powered by the electric grid. Hurricanes and other natural disasters can cause the temporary loss of commercial power. Backup power refers to your plans to provide backup power to keep your communications facilities running until commercial power is restored.

⁵ *Id.* at ref. no. 1.1.7.

⁶ *Id.* at ref. no. 1.1.8.

⁷ In light of the importance of such resilience, in addition to requiring all Stage 2 support recipients to develop and document network resilience plans, we also award additional points to fixed Stage 2 support applicants for having a backup network or path diversity.

⁸ See FCC, CSRIC Best Practice Nos. 11-9-0580, 11-9-0510, 11-9-5113, 11-9-0566 and 11-9-0568, <https://opendata.fcc.gov/Public-Safety/CSRIC-Best-Practices/qb45-rw2t/data>.

Example Best Practices, Checklists and/or Standards

The FCC's CSRIC has issued a number of best practices that describe example techniques for implementing backup power solutions. These include CSRIC Best Practice Nos. 11-9-5204 (ensuring the availability of emergency/backup power), 11-9-0657 (designing standby generator systems for fully automatic operation and for ease of manual operation) and 11-9-1028 (engaging in preventative maintenance programs for network site support systems).⁹

4. NETWORK MONITORING

Please provide in your Disaster Preparation and Response Plan a description of methods and procedures that you have in place, or will soon have in place, to implement network monitoring.

Description

Network monitoring refers to your diagnostics, alarms, collection, analysis, and visualization techniques and systems to detect, correlate and address potential network faults.

Example Best Practices, Checklists and/or Standards

The FCC's CSRIC has issued a number of best practices that describe example techniques for implementing backup power solutions. These include CSRIC Best Practice Nos. 11-9-0401 (monitoring networks to enable quick response) and 11-9-0417 (designing and implementing procedures to evaluate failure and emergency conditions affecting network capacity).

5. EMERGENCY PREPAREDNESS

Please provide in your Disaster Preparation and Response Plan a description of methods and procedures that you have in place, or will soon have in place, related to emergency preparedness.

Description

Emergency preparedness refers to your activities, including planning activities, intended to maintain your continuity of network operations in an area affected by a major weather event, including coordination with other entities.

Example Best Practices, Checklists and/or Standards

The FCC's CSRIC has issued CSRIC Best Practice Nos. 11-9-0655 (coordinating hurricane and other disaster restoration work with electrical and other utilities).¹⁰ In addition, the ATIS checklist provides example techniques to strengthen infrastructure equipment. These relate to:

- reserving and activating primary or back-up Emergency Operation Centers (EOCs) outside of a storm's path for tactical operations;¹¹ and
- verifying designations for high priority circuits are maintained in a database for speed of restoration.¹²
- coordination agreements between communications providers and power companies regarding mutual preparation and restoration efforts that can be activated when a storm

⁹ See FCC, CSRIC Best Practice Nos. 11-9-5204, 11-9-0657 and 11-9-1028, <https://opendata.fcc.gov/Public-Safety/CSRIC-Best-Practices/qb45-rw2t/data>.

¹⁰ See FCC, CSRIC Best Practice No. 11-9-0655, <https://opendata.fcc.gov/Public-Safety/CSRIC-Best-Practices/qb45-rw2t/data>.

¹¹ ATIS NRSC, ATIS-0100019 Emergency Preparedness and Response Checklist at ref. no. 2.10.1 (2019), https://www.atis.org/01_committ_forums/nrsc/documents/.

¹² *Id.* at ref. no. 1.2.5.