



# PUBLIC NOTICE

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## CONNECT USVI FUND STAGE 2 SUPPORT AUTHORIZED FOR BROADBAND VI

### WC Docket Nos. 18-143, 10-90

By this Public Notice, the Wireline Competition Bureau (Bureau) authorizes \$84,456,870 in Connect USVI Fund Stage 2 support for the winning proposals from Broadband VI to provide voice and broadband services for the 10-year period with speeds up to 1 Gigabit per second (Gbps) identified in Attachment A of this Public Notice.<sup>1</sup>

In the *PR-USVI Stage 2 Order*, the Commission adopted a competitive proposal process to award fixed support over a 10-year period to ensure the continued expansion and improvement of fixed voice and broadband service in the U.S. Virgin Islands.<sup>2</sup> Based on the applications received for the Stage 2 competitive process prior to the application deadline, Broadband VI received the lowest overall score based on the 270-point scale of the objective, weighted factors of price, network performance, and redundancy and resiliency for each of the two geographic areas in the U.S. Virgin Islands.<sup>3</sup> As part of the competitive process, the Bureau also reviewed other application information, including Broadband VI's submitted financial information and its proposed network design (as certified by a professional engineer) to meet the program's service requirements to offer voice service and broadband service with downstream speeds of 1 Gigabit per second.<sup>4</sup> Based on its review, the Bureau announced Broadband VI as the winning applicant for each area based on the application of the weighted, objective factors.<sup>5</sup>

For the winning proposals previously announced by the Bureau and identified in Attachment A, we have conducted additional reviews of Broadband VI's letter of credit from an eligible bank, Bankruptcy Code opinion letter, documentation of its Eligible Telecommunications Carrier designation,

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<sup>1</sup> *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 (2019) (*PR-USVI Stage 2 Order*).

<sup>2</sup> *Id.* at 9114-33, paras. 11-37.

<sup>3</sup> See *Uniendo a Puerto Rico Fund and Connect USVI Fund Notice and Filing Requirements and Other Procedures for Stage 2 Fixed Competitive Proposal Process*, Public Notice, WC Docket Nos. 18-143, 10-90, 35 FCC Rcd 218, 220, 252-55, paras. 2, 124-34 (WCB 2020) (*Procedures Public Notice*) (explaining scoring of proposals based on price per location, network performance, and resilience and redundancy information provided by eligible applicants).

<sup>4</sup> *Procedures Public Notice*, 35 FCC Rcd at 233-38, paras. 54-64; *Wireline Competition Bureau Announces Winning Applicants for the Connect USVI Fund Stage 2 Competitive Process*, Public Notice, 35 FCC Rcd 12921 (WCB 2020) (*USVI Winner Public Notice*).

<sup>5</sup> *USVI Winners Public Notice*, 35 FCC Rcd at 12921, para. 1.

and its Disaster Preparation and Response Plan (DPRP) committing to methods and procedures that it will use to prepare for and respond to future disasters.<sup>6</sup>

Based on the representations and certifications in Broadband VI's application, and the Bureau's approval of its DPRP, we authorize Stage 2 support for the winning proposals for the areas listed in Attachment A—i.e., the entire U.S. Virgin Islands.<sup>7</sup> In the attachment, we provide the total support amount over 10 years that Broadband VI is authorized to receive for each area for which it is the winning applicant and the total number of locations to which Broadband VI must offer the required voice and broadband services for each performance tier and latency accepted in its winning proposal.<sup>8</sup>

We direct and authorize the Universal Service Administrative Company (USAC), upon issuance of this Public Notice, to obligate and disburse from the Universal Service Fund the amounts identified in Attachment A to Broadband VI for the areas specified. USAC will make disbursement payments to the account on file for the 498 ID associated with the study area code. USAC will disburse the support in 120 monthly payments, which will begin next month. Based on this authorization of support to Broadband VI, and consistent with the *Procedures Public Notice*, the Bureau will soon make available to the public the final proposal scores for the Connect USVI Fund and certain application information.<sup>9</sup>

Below, we provide a summary of the various obligations of authorized Stage 2 support recipients. This summary is not comprehensive, and Broadband VI is responsible for compliance with its legal obligations, including universal service fund requirements and the Commission's rules.

*Summary of Obligations and Relevant Dates.* The following dates are applicable to the Stage 2 support recipient that is being authorized for support by this Public Notice.

- **Annual reporting of location information.** Stage 2 support recipients must file location information with USAC through the High-Cost Universal Broadband (HUBB) portal.<sup>10</sup> This information includes geolocation data for each qualifying location to which they are offering the requisite service and the technology the Stage 2 support recipient is using to offer the requisite service to the qualifying locations. The requisite service is: at least one standalone voice plan and one service plan that provides broadband at the relevant performance tier and latency requirements at rates that are reasonably comparable to rates offered in urban areas.<sup>11</sup> The locations must be in the geographic areas covered by the Broadband VI's winning proposals.<sup>12</sup>

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<sup>6</sup> A winning applicant must submit for the Bureau's approval a Disaster Preparation and Response Plan that commits to the methods and procedures that the applicant will use, during the period for which it receives Stage 2 support, to prepare for and respond to disasters in the U.S. Virgin Islands. 47 CFR § 1515; *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9174-76, paras. 134-38.

<sup>7</sup> As discussed further herein, Virgin Islands Telephone Corp. d/b/a Viya will no longer receive frozen high-cost support for the areas where it is not the winning applicant. See *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9156, para. 87.

<sup>8</sup> The total number of required locations may be adjusted following the mandatory one-year and voluntary five-year location adjustment processes for the Stage 2 term. *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9144-46, paras. 63-66; *Procedures Public Notice*, 35 FCC Rcd at 223-24, para. 12.

<sup>9</sup> *Procedures Public Notice*, 35 FCC Rcd at 241-43, 257, paras. 82-86, 143. The proposal scores and application information will soon be made publicly available through the Commission's Electronic Case Filing System and the Bureau's webpage for the Connect USVI Fund proceeding: <https://www.fcc.gov/uniendo-puerto-rico-and-connect-usvi-fund-stage-2>.

<sup>10</sup> 47 CFR § 54.316(a)(7). The Bureau expects to obtain approval from the Office of Management and Budget for these recordkeeping requirements prior to the deadlines to submit the requisite information.

<sup>11</sup> 47 CFR § 54.316(a)(7); *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9149, para. 73. See also *Wireline Competition Bureau Announces Results of 2019 Urban Rate Survey for Fixed Voice and Broadband Services, Posting of Survey*

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The Commission has consistently encouraged carriers subject to defined deployment obligations and HUBB reporting obligations to report location data on a rolling basis and has adopted a best practice of filing this information within 30 days after the initial offering of service.<sup>13</sup> While the Commission encourages reporting on a rolling basis, the first deadline for the long-form applicant being authorized in this Public Notice to submit its location data is on or before March 1, 2022.<sup>14</sup> Support recipients must continue to report this information on or before the last business day of each **February** in each subsequent year until all build-out requirements are satisfied. For more information about the HUBB portal and reporting location data, visit <https://www.usac.org/high-cost/>.

- **Service milestones.** A Stage 2 support recipient must complete construction and begin commercially offering service to 40 percent of the requisite number of the locations in its territory by the end of the third year of funding and to an additional 20 percent in each subsequent year, with 100 percent by the end of the sixth year.<sup>15</sup> The service milestones for the winning applicant authorized by this Public Notice are as follows:

Percentage of Locations in the Territory	Service Milestone Deadline
40	December 31, 2024
60	December 31, 2025
80	December 31, 2026
100	December 31, 2027

By the last business day of the second calendar month following each relevant service milestone, a Stage 2 support recipient must file a certification in the HUBB portal that it has met its service milestone and is meeting the requisite public interest obligations.<sup>16</sup> Based on the authorization of support by this Public Notice, an ETC must file its certifications in the HUBB portal by **March 1** following each service milestone.

If an ETC is unable to meet a service milestone, it must notify the Commission, USAC, and the relevant U.S. Territory no later than ten business days after the applicable deadline.<sup>17</sup> If the ETC is unable to meet the required deployment obligations due to circumstances beyond its control, it

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*Data and Explanatory Notes, and Required Minimum Usage Allowance for Eligible Telecommunications Carriers*, Public Notice, 33 FCC Rcd 12316 (WCB 2018).

<sup>12</sup> 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) (*Location Guidance Public Notice*).

<sup>13</sup> See, e.g., *Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949, 6011, para. 173 (2016).

<sup>14</sup> Location data are due by the last business day of the second calendar month following the relevant support year. 47 CFR § 54.316(b)(7); *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9143-44, 9149, paras. 61, 73.

<sup>15</sup> 47 CFR § 54.1506; *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9143-44, para. 62.

<sup>16</sup> 47 CFR § 54.316(b)(7); *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9149-50, para. 73.

<sup>17</sup> 47 CFR § 54.320(d).

may also seek waiver of the service milestones.<sup>18</sup> As with repeated warnings to other high-cost support recipients of the Connect America Fund, the Commission has stated that it does not expect to routinely grant such waiver requests, emphasizing the difficulty of demonstrating good cause under circumstances where carriers fail to plan for contingencies that would prevent compliance with defined deployment obligations.<sup>19</sup>

- **Annual section 54.313 report.** Broadband VI will be required to file its first annual section 54.313 report by **July 1, 2022** and each subsequent year until the year after their support terms have ended.<sup>20</sup> It must file its annual reports with USAC.<sup>21</sup> Support recipients must complete the FCC Form 481 on USAC's website.<sup>22</sup> They must also test and certify compliance with relevant performance requirements in section 54.1507 of the Commission's rules.<sup>23</sup> The Commission has adopted a uniform framework to measure and report on the performance of ETCs' service.<sup>24</sup>
- **Annual section 54.314 certification.** The annual section 54.314 certification is due for Broadband VI by **October 1, 2021**.<sup>25</sup>

Pursuant to section 54.314 of the Commission's rules, if a support recipient was designated by the local authority, that local authority must certify on the support recipient's behalf "that all federal high-cost support provided . . . within that [Territory] was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended."<sup>26</sup>

All post-designation ETC-related filings must be submitted in good faith and include a certification that, to the best of the ETC's knowledge and belief, the information is complete and accurate.<sup>27</sup> In addition, ETCs have an on-going duty to correct or amend information if they have reason

<sup>18</sup> *Connect America Fund et al.*, Report and Order, 29 FCC Rcd 15644, 15700, para. 154 (2014) (*December 2014 Connect America Order*).

<sup>19</sup> See *Connect America Fund et al.*, Order on Reconsideration, 33 FCC Rcd 1380, 1394, para. 35 (2018) (explaining that "it would be difficult for a recipient to meet its burden of demonstrating good cause to grant a waiver of the deployment obligations if it did not plan to build to 100 percent of funded locations at the outset of its support term"); *id.* at 1394, para. 33 & n.88 (citing *December 2014 Connect America Order*, 29 FCC Rcd at 15660, para. 40 & n.93) (explaining that "the Commission has cautioned that it does not expect such waiver requests will be granted routinely, and a failure to plan for some contingencies would make it difficult to establish that there is good cause to warrant waiver").

<sup>20</sup> 47 CFR § 54.313(e); *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9149-50, para. 73.

<sup>21</sup> 47 CFR § 54.313.

<sup>22</sup> See Universal Service Administrative Company High Cost Forms, FCC Form 481, <http://www.usac.org/hc/tools/forms.aspx>.

<sup>23</sup> 47 CFR § 54.1507.

<sup>24</sup> *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9149, para. 73 & n.271; *Performance Measures for Connect America High-Cost Universal Service Support Recipients*, Order, 33 FCC Rcd 6509 (WCB/WTB/OET 2018) (*CAF Performance Measures Order*); *Performance Measures for Connect America High-Cost Universal Service Support Recipients*, Order on Reconsideration, 34 FCC Rcd 10109 (2019); 47 CFR § 54.313(a)(6).

<sup>25</sup> 47 CFR § 54.314.

<sup>26</sup> *Id.* § 54.314(a).

<sup>27</sup> See, e.g., FCC Form 481 Officer Certification (requiring an officer of a petitioning entity to certify that he/she is "an officer of the reporting carrier; my responsibilities include ensuring the accuracy of the annual reporting requirements for universal service support recipients; and, to the best of my knowledge, the information reported on this form and in any attachments is accurate"); see also 47 CFR § 1.17(a)(2) (stating that no person may provide, in any written statement of fact "material factual information that is incorrect or omit material information that is

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to believe, either through their own investigation or upon notice from USAC, that the data are inaccurate, incomplete, or contain errors or anomalies.<sup>28</sup> The failure to timely file information may result in penalties in the form of a reduction in support.<sup>29</sup>

*Location Adjustment Process.* The Bureau anticipates the adjustment window, including the stakeholder comment period, to open one year following this public notice authorizing support to Broadband VI. By the window closing date, if a winning applicant cannot identify actual locations totaling the number identified in Attachment A, it must file and certify its proposed actual location number and all relevant supporting information, including maps, studies, certifications, and any other evidence with the Bureau. The winning applicant must include geolocation data indicating the latitude and longitude and address for each actual location it can identify for each winning area. If the winning applicant does not need to adjust its deployment obligation, it must file a certification with the Bureau by the close of the adjustment window certifying to that effect and accepting the number of locations the Bureau previously announced.

*Disaster Preparation and Response Plans.* 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.<sup>30</sup>

*Document Retention and Compliance Audits.* Under section 54.320 of the Commission's rules, recipients of high-cost support must retain, for at least ten years, all records necessary to demonstrate to auditors that the support received was consistent with universal service high-cost program rules and to make these documents available upon request to the Commission (and any of its Bureaus or Offices) and to USAC, and to their respective auditors.<sup>31</sup> In addition, all ETCs that receive high-cost support are subject to random compliance audits and other investigations to ensure compliance with program rules and orders, including verification of actual deployment to reported locations.<sup>32</sup>

*Consequences for Non-Compliance.* A support recipient is subject to non-compliance measures once it becomes a support recipient if it fails or is unable to meet its minimum coverage requirement or other service requirements, or fails to fulfill any other term or condition of Stage 2 support.<sup>33</sup> These measures scale with the extent of non-compliance and include additional reporting, withholding of support, and support recovery.<sup>34</sup> A defaulting support recipient may also be subject to sanctions, including, but not limited to, potential revocation of ETC designations and suspension or debarment.<sup>35</sup>

*ETC Obligations.* All Stage 2 support recipients were required to obtain a high-cost ETC designation prior to being authorized for high-cost support, and thus should be familiar with ETC requirements. For example, all high-cost ETCs commit to serving the entire area covered by an ETC designation and must offer Lifeline voice and broadband service throughout such area to qualifying low-

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necessary to prevent any material factual statement that is made from being incorrect or misleading without a reasonable basis for believing that any such material factual statement is correct and not misleading”).

<sup>28</sup> See *Location Guidance Public Notice*, 31 FCC Rcd at 12910.

<sup>29</sup> 47 CFR §§ 54.313(j), 54.314(d), 54.316(c), 54.320.

<sup>30</sup> *Id.* § 54.1515(c).

<sup>31</sup> *Id.* § 54.320(b).

<sup>32</sup> *Id.* § 54.320(a).

<sup>33</sup> 47 CFR §§ 54.1508(e), 54.320; *CAF Performance Measures Order*, 33 FCC Rcd at 6531-33, paras. 60-67.

<sup>34</sup> *Id.*

<sup>35</sup> 47 CFR § 54.320; *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9149-50, para. 73-74.

income consumers pursuant to the Lifeline program rules.<sup>36</sup> While a Stage 2 support recipient was not required to obtain an ETC designation that was limited only to the eligible geographic areas covered by its winning proposals, it may only use its Stage 2 support to offer the required voice and broadband services to locations in awarded areas. Based on its ETC designation, Broadband VI is required to continue offering Lifeline throughout its designated ETC area, including in areas where it was not awarded Stage 2 support, absent relinquishment or forbearance.<sup>37</sup> Broadband VI may also be subject to specific requirements imposed by the U.S. Virgin Islands.

*Discontinuance of Service and/or Relinquishment of Support.* It is a violation of Commission rules to receive universal service support if that support is not used to provide, maintain, and upgrade voice and/or broadband facilities and services in eligible areas or if the recipient is no longer offering supported services. A carrier that cannot appropriately use universal service support must relinquish its ETC designation pursuant to section 214(a) of the Act and section 54.205 of the Commission's rules.<sup>38</sup> The ETC must file a notice of relinquishment in WC Docket No. 09-197, Telecommunications Carriers Eligible for Universal Service Support, using the Commission's Electronic Comment Filing System (ECFS). WCB will release an order approving the relinquishment if the relinquishing ETC demonstrates that the affected area will continue to be served by at least one ETC.<sup>39</sup> The ETC must then send a copy of its relinquishment notice and a copy of the relinquishment order (within one week of its release) to USAC at [hcorders@usac.org](mailto:hcorders@usac.org). A carrier that intends to discontinue service must first seek authorization to discontinue service under section 63.71 of the Commission's rules.<sup>40</sup>

*Transfers of Control.* ETCs seeking to transfer control of their domestic authorizations to operate pursuant to section 214 of the Communications Act of 1934, as amended, or to engage in the sale of assets under section 214 must first receive approval from the Commission in accordance with sections 63.03 and 63.04 of the Commission's rules governing the procedures for domestic transfer of control/asset applications.<sup>41</sup> Transfers of control and assignments of international section 214 authorizations are separately subject to section 63.24 of the Commission's rules.<sup>42</sup> More information is available on the Commission's website at <http://www.fcc.gov/general/transfer-control>.

*Transitioning Frozen Support.* This authorization impacts the frozen high-cost support Virgin Islands Telephone Corp. d/b/a Viya (Viya) receives.<sup>43</sup> For each area where Broadband VI is the winning applicant, this award of Stage 2 support will immediately cease the frozen support Viya previously received. Viya will only receive phasedown high-cost support in the amounts allocated in Attachment B.<sup>44</sup> Viya will receive two-thirds of the frozen support it previously received for the first 12-month period in equal monthly payments, one-third of its frozen support for the second 12-month period in equal monthly payments, and no support thereafter.<sup>45</sup>

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<sup>36</sup> See 47 CFR §§ 54.101(d), 54.405(a); 47 CFR Subpart E.

<sup>37</sup> For example, some Auction 903 support recipients may have obtained an ETC designation for an entire census block group(s) that was covered by its winning bid(s) but may only use its Auction 903 support to offer service to locations in the eligible census blocks within the census block group(s).

<sup>38</sup> 47 U.S.C. § 214(a); 47 CFR § 54.205.

<sup>39</sup> 47 U.S.C. § 214(e)(4).

<sup>40</sup> 47 CFR § 63.71.

<sup>41</sup> 47 U.S.C. § 214; 47 CFR §§ 63.03, 63.04.

<sup>42</sup> 47 CFR § 63.24.

<sup>43</sup> *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9156, para. 87.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

**Further Information Contact:****FCC Email & Webpages**[ConnectAmerica@fcc.gov](mailto:ConnectAmerica@fcc.gov)<http://www.fcc.gov><https://www.fcc.gov/uniendo-puerto-rico-and-connect-usvi-fund-stage-2>**General Uniendo a Puerto Rico Fund and Connect USVI Fund Questions****Wireline Competition Bureau  
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