



PUBLIC NOTICE

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WIRELINER COMPETITION BUREAU SEEKS COMMENT ON VIYA PETITION FOR WAIVER OF PHASE DOWN SUPPORT

WC Docket No. 18-143

Comment Due Date: April 4, 2022

Reply Comment Due Date: April 19, 2022

By this Public Notice, the Wireline Competition Bureau (Bureau) seeks comment on the Petition for Waiver of Transition Rules filed on December 3, 2021 by Virgin Islands Telephone Corporation dba Viya (Petition). In its Petition, Viya seeks a waiver of the phase down of fixed support following the authorization for the winning applicant in the Connect USVI Fund Stage 2 proceeding.¹

In the *PR-USVI Stage 2 Order*,² the Commission adopted a single-stage competitive proposal process to award fixed support in the U.S. Virgin Islands (Territory) over a 10-year period. To replace frozen support, the Commission adopted a new mechanism to award support for services in the U.S. Virgin Islands based on a competitive proposal process and tied to defined deployment and public interest obligations.³ The Commission found that existing frozen support would no longer be necessary as Stage 2 progresses and directed the phase down of frozen support, which is not tied to specific and accountable build-out targets in the Territory.⁴ For the phase out of support, Viya, the incumbent local exchange carrier, would receive 2/3 of its frozen support for the first 12 months following authorization of the winning applicants (i.e., until June 8, 2022); 1/3 of its frozen support in the second 12-month period (i.e., until June 8, 2023); and zero frozen support thereafter.⁵ The Commission further provided that following this 24-month phase down period, Viya would only continue to receive support, if any, that it was awarded through the Stage 2 competitive process.⁶

Following the Stage 2 competitive process in November 2020, the Bureau announced another carrier as the winning applicant of the two geographic areas that comprise all of the U.S. Virgin Islands and, on June 8, 2021, authorized the winning carrier to receive nearly \$85 million in total Stage 2 support

¹ Petition for Waiver of Transition Rules by Virgin Islands Telephone Corp. dba Viya, WC Docket No. 18-143 (filed Dec. 3, 2021) (Petition).

² *The Uniendo a Puerto Rico Fund and the Connect USVI Fund*, WC Docket No. 18-143, Report and Order and Order on Reconsideration, 34 FCC Rcd 9109 (2019) (*PR-USVI Stage 2 Order*).

³ *Id.* at 9114-58, paras. 10-91.

⁴ *Id.* at 9156, para. 87.

⁵ *See id.*

⁶ *Id.*

over the 10-year term.⁷ With the announcement authorizing the winning applicant, the Bureau also provided that the approximately \$16 million in frozen annual support Viya received would be phased down in accordance with the *PR-USVI Stage 2 Order*, with Viya's support ending entirely on June 8, 2023.⁸

On December 3, 2021, Viya filed its Petition requesting waiver of the phase-down support adopted in the *PR-USVI Stage 2 Order*.⁹ Viya's Petition generally requested that the Commission waive Viya's current phase-down schedule and align reductions in its support with the Stage 2 winning applicant's six-year deployment period.¹⁰ Specifically, Viya seeks a waiver to maintain its support at the current 2/3 level until the Stage 2 winning applicant's first mandatory deployment milestone on December 31, 2024, after which Viya's support would successively phase down before ending entirely on December 31, 2026.¹¹

We seek comment on Viya's Petition to waive the current schedule for phasing down its support following the Stage 2 winning applicant's authorization. In the *USF/ICC Transformation Order*, the Commission addressed waiver petitions of transitional support from competitive eligible telecommunications carriers support to the Connect America Fund.¹² In that context, the Commission provided that it would carefully consider waiver requests of carriers regarding the phase down of support to protect existing service during the transition of support to the Mobility Fund programs but cautioned that any carrier seeking a waiver must include specific financial data and other information to "demonstrate that it needs additional support in order for its customers to continue receiving voice service in areas where there is no [] alternative."¹³ The Commission provided that the "failure to provide the listed information shall be grounds for dismissal without prejudice."¹⁴ We seek comment on what types of data and information Viya should be required to submit to demonstrate that a waiver of the current schedule for phasing down its support is necessary and in the public interest to ensure service to consumers in the U.S. Virgin Islands.

We seek comment whether extending the period of phase-down support beyond the current 24-month period is necessary in one or both of the geographic areas comprising the U.S. Virgin Islands to ensure service continues at existing levels without interruption. Should any additional phase-down support target specific areas where the winning applicant does not currently offer service or should such support be determined based on the entire geographic area, irrespective of deployment by the winning applicant? If additional phase-down support is necessary to continue service, we seek comment on whether additional phase-down support will be necessary for the entire six-year period until the winning applicant's last deployment milestone or for a shorter period of time?

⁷ *Connect USVI Fund Stage 2 Support Authorized for Broadband VI*, Public Notice, DA 21-666, 36 FCC Rcd 9405 (June 8, 2021) (*USVI Authorization Notice*).

⁸ *Id.* at 9410.

⁹ *See* Petition.

¹⁰ *Id.* at 10.

¹¹ *Id.*

¹² *See Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform – Mobility Fund*; WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17839-42, paras. 539-44 (2011) (*USF/ICC Transformation Order and/or FNPRM*).

¹³ *Id.* at 17840-42, paras. 540, 542

¹⁴ *Id.* at 17842, para. 543.

Finally, if we were to grant additional support, should we require Viya to commit to specific service obligations or network performance commitments in exchange for accepting an offer for additional phase down support? What specific service obligations and network performance commitments are appropriate to ensure uninterrupted service to all residents in the Territory?

Filing Requirements. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated above. Comments and reply comments may be filed in **WC Docket No. 18-143** using the Commission's Electronic Comment Filing System (ECFS).¹⁵ Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>.

- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings at its headquarters. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19.¹⁶

People with Disabilities. To request materials in accessible formats (such as Braille, large print, electronic files, or audio format), please send an email to fcc504@fcc.gov. We ask that requests for accommodations be made as soon as possible in order to allow the agency to satisfy such requests whenever possible.

Ex Parte Rules. The proceeding is considered a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.¹⁷ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

¹⁵ See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

¹⁶ See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, 35 FCC Rcd 2788 (OMD 2020), <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>.

¹⁷ 47 CFR §§ 1.1200 *et seq.*

For further information, please contact Dangkhwa Nguyen, Wireline Competition Bureau, Telecommunications Access Policy Division, at Dangkhwa.nguyen@fcc.gov.

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