

**FCC FACT SHEET\*****The Uniendo a Puerto Rico Fund and the Connect USVI Fund**  
Further Notice of Proposed Rulemaking – WC Docket No. 18-143

**Background:** The recent devastation caused by Hurricane Fiona in Puerto Rico demonstrates that critical communications infrastructure in areas prone to hurricanes must be built to withstand storm damage and have redundant capabilities. This Further Notice of Proposed Rulemaking proposes another step for mobile and fixed broadband funding in Puerto Rico and the United States Virgin Islands (USVI) to restore, harden, and expand these vital networks. The current three-year mobile support term for carriers in Puerto Rico and the USVI ends starting in June 2023. This FNPRM proposes a period of up to 24 months of transitional support for mobile carriers so they can continue to provide service and ensure that their networks are sufficiently resilient to withstand the impact of natural disasters.

This FNPRM also proposes extending the phase-down of frozen support for incumbent fixed providers in Puerto Rico and the USVI for the areas in which they were not awarded long-term support for broadband services. Because the frozen support for those providers is scheduled to end in June of 2023, this item proposes extending the existing support amount until December 2025.

**What the Further Notice of Proposed Rulemaking Would Do:**

- Propose transitional support for mobile carriers, as a lapse in funding may leave progress already made in increasing the robustness of existing 4G telecom services and expanding 5G at risk.
- Seek comment on a variety of aspects of mobile transitional support, including eligible areas where support may be used, appropriate technological uses of transition support, the proper support term, the appropriate amount of transitional support, and any reporting and minimum service requirements.
- Seek comment on whether, and to what extent, the new maps generated as part of the Broadband Data Collection should be used to determine mobile support in Puerto Rico and the USVI.
- Propose extending phase-down frozen support for fixed providers in Puerto Rico and the USVI who were not awarded long-term, competitive support in a given area.
- Propose requiring all phase-down frozen support to be used on network resiliency and redundancy, and requiring all incumbent providers who receive phase-down support to submit a spending plan to the Wireline Competition Bureau.

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\* This document is being released as part of a “permit-but-disclose” proceeding. Any presentations or views on the subject expressed to the Commission or its staff, including by email, must be filed in WC Docket No. 18-143, which may be accessed via the Electronic Comment Filing System (<https://www.fcc.gov/ecfs/>). Before filing, participants should familiarize themselves with the Commission’s *ex parte* rules, including the general prohibition on presentations (written and oral) on matters listed on the Sunshine Agenda, which is typically released a week prior to the Commission’s meeting. *See* 47 CFR § 1.1200 *et seq.*

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

In the Matter of )
)
The Uniendo a Puerto Rico Fund and the Connect ) WC Docket No. 18-143
USVI Fund )
)
Connect America Fund ) WC Docket No 10-90

FURTHER NOTICE OF PROPOSED RULEMAKING\*

Adopted: []

Released: []

Comment Date: (30 days after date of publication in the Federal Register)
Reply Comment Date: (45 days after date of publication in the Federal Register)

By the Commission:

I. INTRODUCTION

1. According to the United States Department of Agriculture, "the major threat of disaster in Puerto Rico and the U.S. Virgin Islands comes from hurricanes, tropical storms, and drought."1 In 2017, two hurricanes battered these Territories, causing extensive damage and loss of life.2 Although repair of infrastructure was critical, "simply putting vulnerable systems back to the way they were before they collapsed is not enough."3 The outages, flooding, and landslides in Puerto Rico caused by the recent

\* This document has been circulated for tentative consideration by the Commission at its October 27, 2022 open meeting. The issues referenced in this document and the Commission's ultimate resolution of those issues remain under consideration and subject to change. This document does not constitute any official action by the Commission. However, the Chairwoman has determined that, in the interest of promoting the public's ability to understand the nature and scope of issues under consideration, the public interest would be served by making this document publicly available. The FCC's ex parte rules apply and presentations are subject to "permit-but-disclose" ex parte rules. See, e.g., 47 C.F.R. §§ 1.1206, 1.1200(a). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules, including the general prohibition on presentations (written and oral) on matters listed on the Sunshine Agenda, which is typically released a week prior to the Commission's meeting. See 47 CFR §§ 1.1200(a), 1.1203.

1 United States Department of Agriculture, Climate Hubs, Disaster Preparedness – Puerto Rico and the U.S. Virgin Islands available at https://www.climatehubs.usda.gov/hubs/caribbean/topic/disaster-preparedness-puerto-rico-and-us-virgin-islands (last visited Oct. 5, 2022).

2 Reuters, Puerto Rico's death toll from Hurricane Maria raised to 3,000 (Aug. 28, 2018) available at https://www.reuters.com/article/us-usa-puertorico-maria/puerto-ricos-death-toll-from-hurricane-maria-raised-to-nearly-3000-idUSKCN1LD2DK; CNBC, The U.S. Virgin Islands, devastated by Hurricane Irma, are in serious need of aid (Sept. 13, 2017) available at https://www.cnbc.com/2017/09/13/the-us-virgin-islands-devastated-by-hurricane-irma-are-in-serious-need-of-aid.html.

3 NPR, 5 years on, failures from Hurricane Maria loom large as Puerto Rico responds to Fiona (Sept. 20, 2022), available at https://www.npr.org/2022/09/20/1123846384/puerto-rico-hurricane-fiona-hurricane-maria-anniversary (quoting Craig Fugate, former FEMA administrator).

Hurricane Fiona<sup>4</sup> demonstrate that infrastructure in areas prone to hurricanes must be built to withstand storm damage and have redundant capabilities.

2. In the aftermath of the 2017 hurricanes, the Commission committed to ensuring the restoration, hardening, and expansion of advanced telecommunications networks in the Territories by creating the Bringing Puerto Rico Together Fund and the Connect USVI Fund.<sup>5</sup> As part of these efforts, the Commission adopted a plan to support state-of-the-art mobile wireless networks, including the 5G services being deployed nationwide.<sup>6</sup> For fixed broadband services, the Commission adopted a new, single-round competitive process to award fixed broadband support tied to defined deployment and public interest obligations over a 10-year period in place of the frozen support carriers were then receiving.<sup>7</sup> With the effects of Hurricane Fiona clearly evident, we now seek to build on these efforts and ensure that carriers maintain and strengthen existing facilities while network construction and improvement continue toward the goal of bringing more advanced services to the Commonwealth of Puerto Rico and the U.S. Virgin Islands (together “the Territories”). As explained below, we seek comment on proposals to ensure that mobile carriers continue to implement advanced telecommunications services and that fixed providers have sufficient resiliency and redundancy during the transition periods of the Bringing Puerto Rico Together Fund and the Connect USVI Fund.

## II. BACKGROUND

### A. Mobile Interim Support

3. In 2019, the Commission adopted the *2019 PR USVI Order*, which allocated additional support to the restoration of damaged mobile networks in Puerto Rico and the U.S. Virgin Islands, and to the hardening and deployment of modern, high-speed, and storm-hardened advanced telecommunications networks.<sup>8</sup> The Commission adopted a three-year budget of up to \$254.4 million for the Bringing Puerto Rico Together Fund and up to \$4.4 million for the Connect USVI Fund; these funds were intended to not only restore mobile network coverage to prior service levels, but also to foster greater access to advanced telecommunications for the Territories.<sup>9</sup>

4. The Commission provided eligible facilities-based mobile carriers a one-time election of funding for a three-year funding period with support based on their relative subscriber counts in the Territories before the 2017 hurricanes.<sup>10</sup> An eligible mobile carrier could elect to receive: (1) up to 75% of its total support allocated in the *2019 PR USVI Order* to restore, harden, and expand networks capable of providing 4G LTE or better services at outdoor data transmission rates of at least 10/1 Mbps;<sup>11</sup> and (2) up to 25% of its total eligible support allocated in the *2019 PR USVI Order* to deploy networks capable of

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<sup>4</sup> *Id.*

<sup>5</sup> *The Uniendo a Puerto Rico Fund and the Connect USVI Fund*, Order and Notice of Proposed Rulemaking, 33 FCC Rcd 5404, 5408, para. 13 (2018) (*Stage 1 Order* or *Stage 2 NPRM*) (establishing the two stages of the Bringing Puerto Rico Together Fund and the Connect USVI Fund).

<sup>6</sup> *See The Uniendo a Puerto Rico Fund and the Connect USVI Fund*, Report and Order and Order on Reconsideration, 34 FCC Rcd 9109, 9167, 9171-72, paras. 114, 122-24 (2019) (*2019 PR USVI Order*).

<sup>7</sup> *Id.* at 9114, para. 10.

<sup>8</sup> *Id.* at 9162-63, 9166, 9167, paras. 101-02, 111-12, 114.

<sup>9</sup> *Id.* at 9166, para. 111.

<sup>10</sup> *Id.* at 9162-63, para. 101. Subscriber counts were based on June 2017 FCC Form 477 data. 47 CFR § 54.1509(c); *2019 PR USVI Order*, 34 FCC Rcd at 9164-65, paras. 106-07.

<sup>11</sup> 47 CFR §§ 54.1509(c), 54.1514(b)(1); *see also 2019 PR USVI Order*, 34 FCC Rcd at 9171, para. 122 (discussing 4G LTE).

providing 5G-NR service at outdoor data transmission rates of at least 35/3 Mbps.<sup>12</sup> Nearly all eligible mobile carriers in Puerto Rico and the U.S. Virgin Islands elected to receive 100% of their total eligible support to restore, harden, and expand 4G LTE and 5G-NR communication networks.<sup>13</sup>

5. In addition to requiring specific network performance criteria, the Commission imposed obligations and reporting requirements for mobile recipients.<sup>14</sup> Where a recipient uses its high-cost support to harden its network, the recipient is required to demonstrate how it used the support by annually submitting a map and detailed narrative description of its network hardening activities from the prior calendar year.<sup>15</sup> The Commission also adopted interim and final benchmarks for the full restoration of mobile network coverage.<sup>16</sup> At the end of the three-year term of support, each mobile support recipient must have restored its mobile network coverage to areas that are equal to or greater than 100% of its pre-hurricane coverage.<sup>17</sup> For the deployment of 5G technology, the Commission required carriers to submit annual reports for the costs related to deployment during the preceding 12-month period.<sup>18</sup> Carriers must return any Stage 2 support that is not used to restore, harden, or expand their 4G LTE and 5G-NR capable networks.<sup>19</sup>

## B. Fixed Support

6. For fixed broadband services, the *2019 PR USVI Order* adopted a comprehensive funding mechanism to award up to \$691.2 million of support for a 10-year period.<sup>20</sup> The Commission employed a single-round competitive proposal process to select applicants based on the lowest score for a series of weighted, objective criteria for price and network performance, including speed, latency, and usage

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<sup>12</sup> 47 CFR §§ 54.1509(c), 54.1514(b)(2); *see also* *2019 PR USVI Order*, 34 FCC Rcd at 9172, para. 124 (discussing 5G-NR).

<sup>13</sup> *See Wireline Competition Bureau Authorizes Stage 2 Mobile Support for Certain Providers Participating in the Uniendo a Puerto Rico Fund and the Connect USVI Fund*, Public Notice, 35 FCC Rcd 6321, 6324, Attach. A (WCB 2020) (starting the support period in June 2020 for AT&T, PRTC, and T-Mobile in Puerto Rico, and AT&T in the U.S. Virgin Islands); *Wireline Competition Bureau Authorizes Stage 2 Mobile Support for T-Mobile in Puerto Rico*, Public Notice, 35 FCC Rcd 10303, 10305, Attach. A (WCB 2020) (authorizing additional mobile support in September 2020 for T-Mobile based on its acquisition of PR Wireless PR, LLC); *Wireline Competition Bureau Authorizes Stage 2 Mobile Support for Viya in the U.S. Virgin Islands*, Public Notice, 35 FCC Rcd 11555, 11557, Attach. A (WCB 2020) (starting the support period in October 2020 for Viya) (collectively *Mobile Authorization Notices*).

<sup>14</sup> 47 CFR §§ 54.313, 54.316, 54.1514(d), 54.1515.

<sup>15</sup> 47 CFR § 54.1514(d). The first deadline to submit reports is November 16, 2022. *Wireline Competition Bureau Revises Reporting Deadlines for PR-USVI Stage 2 Mobile Recipients*, Public Notice, DA 22-896 (WCB Aug. 29, 2022) (setting a deadline of November 16, 2022 for current support recipients to file their annual reports) (*Stage 2 Reporting Deadline Public Notice*).

<sup>16</sup> 47 CFR § 54.1513(b).

<sup>17</sup> *Id.* The Commission provided that the mobile network coverage milestones will be determined in comparison to the network coverage areas prior to the hurricanes based on June 2017 FCC Form 477 data. *2019 PR USVI Order*, 34 FCC Rcd at 9170, para. 119.; *see also* 47 CFR §§ 54.1509(c), 54.1510.

<sup>18</sup> 47 CFR § 54.1514(e).

<sup>19</sup> 47 CFR § 54.1509(d); *2019 PR USVI Order*, 34 FCC Rcd at 9172, para. 125. PR/USVI Stage 2 support may also be used to deploy distributed antenna systems (DAS) networks within public or publicly accessible facilities that aid disaster response. *See Uniendo a Puerto Rico Fund and the Connect USVI Fund; Connect America Fund*, WC Docket Nos. 18-143, 10-90, Declaratory Ruling, DA 22-719 (WCB 2022).

<sup>20</sup> *2019 PR USVI Order*, 34 FCC Rcd at 9146, 9148, paras. 67, 70.

allowance.<sup>21</sup> The competitive proposal process also placed significant weight on resiliency and redundancy to account for the heightened risk of natural disasters in the Territories. The applicant with the lowest combined overall score for each geographic area won support for that area.<sup>22</sup>

7. The Commission found that the existing annual universal service high-cost support provided to incumbents for fixed services in Puerto Rico (\$36.3 million) and the U.S. Virgin Islands (\$16 million) would no longer be necessary because of this new funding mechanism and should be phased out. The Commission further noted that this existing support was not tied to specific and accountable build-out targets.<sup>23</sup> As a result, the Commission directed the phase-down of existing support in the Territories, where an incumbent carrier that did not win high-cost support would receive 2/3 of its existing support for the first 12 months following authorization of the winning applicants; 1/3 of its existing support in the second 12-month period; and zero existing support thereafter.<sup>24</sup>

8. Following the competitive process, the Wireline Competition Bureau (WCB or Bureau) announced the winning carriers and authorized them to receive fixed support.<sup>25</sup> Each support recipient is required to complete construction and begin commercially offering service to 40% of the requisite number of the locations in its service area by December 31, 2024, with 100% by December 31, 2027.<sup>26</sup>

9. In the *Fixed Authorization Notices*, the Bureau also announced that the frozen support the incumbents received would be phased down in accordance with the *2019 PR USVI Order*, with phase-down support ending entirely by June 2023.<sup>27</sup> The phase-down support amounts specified in the *Fixed Authorization Notices* would immediately replace the existing support the incumbent previously received for areas where another applicant's competitive proposal was selected as the winning proposal following the competitive proposal process.<sup>28</sup>

### III. THE BRINGING PUERTO RICO TOGETHER FUND AND THE CONNECT USVI FUND

#### A. Transitional Funding for Mobile Services

10. The Commission provided a three-year period of support for mobile carriers to rebuild their networks to their pre-hurricane coverage levels.<sup>29</sup> In addition, carriers had the opportunity to accept

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<sup>21</sup> *Id.* at 9114-16, paras. 11, 13; *see also* *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, 35 FCC Rcd 218, 220, 252-55, paras. 2, 124-34 (2020).

<sup>22</sup> *2019 PR USVI Order*, 34 FCC Rcd at 9140, para. 52.

<sup>23</sup> *Id.* at 9156, para. 87.

<sup>24</sup> *Id.* at 9156, para. 87; 47 CFR § 54.1504(b).

<sup>25</sup> *Wireline Competition Bureau Announces Winning Applicants for the Connect USVI Fund Stage 2 Competitive Process*, Public Notice, 35 FCC Rcd 12921 (WCB 2020); *Wireline Competition Bureau Announces Winning Applicants for Uniendo a Puerto Rico Fund Stage 2 Competitive Process*, Public Notice, 35 FCC Rcd 12699 (WCB 2020); *Connect USVI Fund Stage 2 Support Authorized for Broadband VI*, Public Notice, 36 FCC Rcd 9405 (WCB 2021) (*USVI Fixed Authorization Notice*); *Wireline Competition Bureau Authorizes Stage 2 Support for Puerto Rico Telephone Company and Liberty Communications of Puerto Rico*, Public Notice, 36 FCC Rcd 9914 (WCB 2021) (*PR Fixed Authorization Notice*) (collectively *Fixed Authorization Notices*).

<sup>26</sup> 47 CFR § 54.1506; *USVI Fixed Authorization Notice*, 36 FCC Rcd at 9407; *PR Fixed Authorization Notice*, 36 FCC Rcd at 9916.

<sup>27</sup> 47 CFR § 54.1504(b); *see also* *USVI Fixed Authorization Notice*, 36 FCC Rcd at 9410; *PR Fixed Authorization Notice*, 36 FCC Rcd at 9919-20.

<sup>28</sup> *2019 PR USVI Order*, 34 FCC Rcd at 9156, para. 87. *See also* *USVI Fixed Authorization Notice*, 36 FCC Rcd at 9410; *PR Fixed Authorization Notice*, 36 FCC Rcd at 9919-20.

<sup>29</sup> *2019 PR USVI Order*, 34 FCC Rcd at 9170, para. 119.

additional funding dedicated to the expansion of 5G services throughout the Territories.<sup>30</sup> Although substantial progress has been made, this Stage 2 mobile support will end in 2023, and it appears now that more work is needed to ensure that Puerto Rico and the U.S. Virgin Islands enjoy the same levels of service as the mainland. Hurricane Fiona has provided a reminder of the critical nature of mobile services in times of emergency and that carriers must have the resources necessary to prepare for and repair from severe storms. We seek comment on these issues.

11. *Transition for Mobile Support.* We propose to provide transitional support to those eligible facilities-based mobile carriers currently receiving Stage 2 mobile support. As further discussed below, we believe that the preservation of service and advancement of mobile networks will be best achieved by providing transitional support for facilities-based carriers participating in the Bringing Puerto Rico Together Fund and the Connect USVI Fund. At a time of heightened risk from hurricanes, we feel that any lapse in funding, no matter how brief, may leave progress already made in increasing the robustness of existing 4G telecom services and expanding 5G at risk.<sup>31</sup> Should all facilities-based carriers that received mobile support for restoration, hardening, and expansion be eligible for transitional support? We also note that support recipients in the Territories must submit their first annual reports later this year.<sup>32</sup> Should the data we receive from those reports impact the provision of transitional support?

12. *Transitional Support Schedule.* For the transition period, we propose to provide support for up to two years (24 months) beginning in the month immediately following the conclusion of each eligible carrier's current Stage 2 mobile support.<sup>33</sup> We tentatively conclude that providing support immediately following the completion of the current mobile support period will allow a seamless preservation of service and will encourage carriers to continue the hardening and expansion of advanced mobile networks in the Territories. We seek comment on this tentative conclusion.

13. The Commission adopted the current Stage 2 three-year support period to allow further development of the procedures and standards for mobile voice and broadband services for possible future application in the Territories.<sup>34</sup> At the time, the Commission anticipated issuing a Further Notice of Proposed Rulemaking to seek comment on the implementation of a long-term support process for high-speed mobile broadband networks through Puerto Rico and the U.S. Virgin Islands before Stage 2 ended.<sup>35</sup> Notwithstanding our proposal for a transition period of up to two years, we propose that transitional support will cease once support is authorized under a long-term mobile wireless mechanism for Puerto Rico and the U.S. Virgin Islands. We seek comment on our proposal for the period of transitional support, including whether to continue transitional support after two years if authorizations under a long-term mechanism have not yet occurred.

14. *Transitional Support Amounts.* We propose to provide transitional support for each eligible facilities-based mobile carrier in an amount equal to the Stage 2 mobile support it currently receives for 5G technologies. For Stage 2, the Commission allocated 25% of the total Stage 2 mobile support of \$258.8 million for the Territories toward 5G network deployment.<sup>36</sup> Participating carriers

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<sup>30</sup> *Id.* at 9172, para. 124.

<sup>31</sup> As of September 21, 2022, days after Hurricane Fiona made landfall in Puerto Rico, wireless providers reported through the FCC Disaster Information Reporting System (DIRS) that 29.9% of the cell sites in the affected areas in Puerto Rico were out of service. FCC, Communications Status Report for Areas Impacted by Hurricane Fiona at 3 (Sept. 21, 2022), <https://docs.fcc.gov/public/attachments/DOC-387449A1.pdf>.

<sup>32</sup> See *Stage 2 Reporting Deadline Public Notice*.

<sup>33</sup> The three-year Stage 2 mobile support period is approximately from June 2020 to June 2023; the precise dates are specific to a recipient based on the date the Bureau authorized support. See *supra* note 13.

<sup>34</sup> *2019 PR USVI Order*, 34 FCC Rcd at 9168, para. 117.

<sup>35</sup> *Id.* at 9168, para. 117.

<sup>36</sup> *Id.* at 9167, para. 114.

elected to receive approximately \$21.2 million annually for 5G networks in Puerto Rico<sup>37</sup> and approximately \$367,000 annually for 5G networks in the U.S Virgin Islands.<sup>38</sup> Carriers are required to return any unused Stage 2 mobile support to the Universal Service Administrative Company within 30 days following the end of the three-year support period.<sup>39</sup> Our proposed transitional support amount is based on the tentative conclusion that mobile carriers will have successfully restored and hardened their mobile networks by the end of the Stage 2 period,<sup>40</sup> so less support will be needed.<sup>41</sup> We note that the Commission is in the process of updating its fixed and mobile broadband availability maps with more detailed and precise information on the availability of fixed and mobile broadband service.<sup>42</sup> We seek comment on whether we should use these Broadband Data Collection maps to determine transitional support amounts or if it is better to maintain a stable amount of support to allow carriers to make plans on how best to expand and harden their networks.

15. The Commission required eligible facilities-based mobile carriers to meet interim and final milestones to restore their network coverage to at least their pre-hurricane area, while also meeting public interest and network performance obligations for 4G LTE and 5G network technologies.<sup>43</sup> While the interim milestone reporting deadline date has not been reached, staff analyses based on June 2021 Form 477 data<sup>44</sup> preliminarily indicate that mobile carriers participating in the Bringing Puerto Rico Together Fund and the Connect USVI Fund will have met, or exceeded, their interim milestone to restore network coverages to at least 66% of their pre-hurricane coverages.<sup>45</sup> Similarly, our review of carriers' publicly available coverage maps reflects significant coverage of the Territories with 4G LTE and 5G capable networks.<sup>46</sup> Do participating carriers require a different amount of transitional support to preserve service following the full restoration of pre-hurricane coverage areas? Should the transitional support for each eligible facilities-based mobile carrier vary depending on any network resilience performance metrics? Should any unused Stage 2 mobile support designated for 5G networks be used to offset a carrier's transitional support? For example, if a carrier was unable to use all of the 25% of total support allocated to 5G networks, should that unused support be deducted from the transitional support the carrier would otherwise receive? Is the amount of proposed transitional support sufficient to permit carriers to further harden advanced telecommunication networks supporting 5G service? We seek comment on our proposal for transitional support amounts, along with any evidence of why a different support amount or alternative proposals might be necessary.

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<sup>37</sup> See *supra* note 13.

<sup>38</sup> *Id.*

<sup>39</sup> 2019 PR USVI Order, 34 FCC Rcd at 9172, para. 125.

<sup>40</sup> See, e.g., T-Mobile 5G & 4G Coverage map at <https://www.t-mobile.com/coverage/coverage-map?INTNAV=tNav:Coverage:5G4GCoverageMap> (last visited Oct. 5, 2022).

<sup>41</sup> We acknowledge that the reporting deadline for coverage milestones has not arrived. However, our preliminary review of the June, 2021 FCC Form 477 data from mobile carriers in the Territories tentatively indicates the interim milestone will likely be met by all Stage 2 mobile carriers. See *supra* Section II. A.

<sup>42</sup> See FCC Broadband Data Collection, <https://www.fcc.gov/BroadbandData>.

<sup>43</sup> 2019 PR USVI Order, 34 FCC Rcd at 9173-74, paras. 127, 130; see also 47 CFR §§ 1514(a), (b).

<sup>44</sup> See Mobile Deployment Form 477 Data, <https://www.fcc.gov/mobile-deployment-form-477-data>. The Commission is transitioning to the Broadband Data Collection, which will replace the Form 477 collection. See FCC, Broadband Data Collection, <https://www.fcc.gov/BroadbandData>.

<sup>45</sup> The first milestone deadline date for reporting network coverage data is January 30, 2023. See 47 CFR §§ 54.1513(b), 54.1514. See also *Stage 2 Reporting Deadline Public Notice* at Appendix A (requiring all reports that would have been filed in 2021 and 2022 by November 16, 2022).

<sup>46</sup> See *supra* note 40.

16. *Appropriate Use of Support.* In the *2019 PR USVI Order*, the Commission observed that carriers were rapidly investing in 5G deployment across the country and directed support toward 4G LTE and 5G technologies to ensure that consumers in the Territories were not relegated to substandard mobile service.<sup>47</sup> In light of that investment, we propose to limit transitional support to restoring, hardening, or expanding networks with 5G-capable networks, and to end use of this support for 4G LTE. Would such a requirement be consistent with the Commission’s goal to “target universal service funding to support the deployment of the highest level of mobile service available today”?<sup>48</sup> We alternatively seek comment on allowing support recipients to use transitional support to restore (as necessary), harden, or expand networks with 4G LTE and 5G baseline performance requirements and standards set forth in the *2019 PR USVI Order* or any subsequent standard adopted by Commission.<sup>49</sup> Would any other restrictions be appropriate? For example, how would we curtail overbuilding or supporting multiple mobile carriers in areas where more than one carrier already provides at least 4G LTE capable service?

17. *Eligible Areas.* We next seek comment on allowing a mobile carrier receiving transitional support to continue using such support for the provision, maintenance, and upgrading of facilities and services throughout its territory during the transition.<sup>50</sup> While the Commission generally limits the scope of where high-cost support can be used,<sup>51</sup> the Commission concluded that all areas of Puerto Rico and the U.S. Virgin Islands would be eligible for mobile high-cost support for the restoration, hardening, and expansion of networks to allow carriers “certain flexibility . . . to determine where hardening and/or expansion will be most impactful.”<sup>52</sup> Is it still in the public interest to permit use of support throughout Puerto Rico and the U.S. Virgin Islands to implement greater resiliency and redundancy measures to safeguard and preserve service during periods of future natural disasters?<sup>53</sup> Allowing a mobile eligible telecommunications carrier (ETC) the flexibility to allocate its use of high-cost support throughout its territory could allow a carrier to make more efficient decisions to expand or harden networks, as well as ensure service. Alternatively, should we require carriers to limit the use of transitional support to less populated areas of the Territories based on data from the Broadband Data Collection?<sup>54</sup> What geographic or population limitations, if any, should we impose on the use of support to preclude the overbuilding of networks and to encourage hardening and deployment in those areas with the least robust coverage?

18. *Minimum Service Requirements and Reporting.* We tentatively conclude that in exchange for accepting transitional support, each mobile carrier must commit to accountability measures for deployment in the Territories. Currently, competitive carriers receiving high-cost support to provide mobile, terrestrial voice, and data services must comply with minimum service requirements for 4G LTE

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<sup>47</sup> *2019 PR USVI Order*, 34 FCC Rcd at 9170-71, para 121.

<sup>48</sup> *Stage 2 NPRM*, 33 FCC Rcd at 5424, para. 85 (internal quotation marks omitted).

<sup>49</sup> 47 CFR § 54.1514(b) (requiring, *inter alia*, outdoor transmission rates of at least 10/1 Mbps and 100 ms round-trip latency for LTE and 35/3 Mbps for 5G-NR); *2019 PR USVI Order*, 34 FCC Rcd at 9171-72, paras. 122-24.

<sup>50</sup> See 47 U.S.C. §§ 214(e)(1), 214(e)(5), 254(e).

<sup>51</sup> See, e.g., *Connect America Fund et al.*, Order, 28 FCC Rcd 14887, 14891, para. 11 (WCB 2013) (clarifying that “price cap carriers must continue to use all frozen high-cost support within the study area for which it is currently provided”).

<sup>52</sup> *2019 PR USVI Order*, 34 FCC Rcd at 9169, para. 118 (concluding that it is in the public interest to grant carriers the flexibility to harden networks in all areas of the Territories in light of the heightened risk of damage due to disasters faced by and the insular nature of the Territories).

<sup>53</sup> See *id.*

<sup>54</sup> See Pub. L. No. 116-130, 134 Stat. 228, 236 (regarding use of the Commission’s Broadband DATA Act coverage maps “when making any new award of funding with respect to the deployment of broadband internet access service intended for use by residential and mobile customers.”).



and 5G-NR technologies.<sup>55</sup> Mobile support recipients are also required to file reports and data regarding the use of support for hardening networks and 5G technology deployment, and to maintain a Disaster Preparation and Response Plan.<sup>56</sup> We see no reason to deviate from including accountability measures, and we propose that carriers receiving transitional support continue to be subject to performance and reporting requirements during the transitional support period. We seek comment on what type of performance and reporting measures should be adopted. Should there be specific deployment commitments or performance requirements by the mobile carriers in exchange for transitional support? If so, what are the appropriate deployment commitments, performance requirements, and corresponding milestones the Commission should consider for the transitional support? What types of reports, data, and verification mechanisms are required to satisfy the deployment commitments and performance requirements? When and how often should mobile carriers be required to submit the reports and data we propose?

19. *Minimum Security Reporting Requirements.* The provision of advanced services necessitates a recognition that such services, in order to be effective and available, must be reasonably secure. In order to further our goal of bringing more advanced services to Puerto Rico and the U.S. Virgin Islands, we propose to require that, in exchange for accepting transitional support, a mobile carrier report and explain the network security controls that it has implemented and how they are commensurate with established best practices or an established risk management framework.<sup>57</sup> We seek comment on whether, in exchange for accepting transitional support, we should also require that mobile carriers report and explain to the Commission instances of unauthorized access to their systems and services. We seek comment on how to minimize the burden associated with these disclosures, while also ensuring that they promote the security of advanced services. We emphasize that mobile carriers' cybersecurity disclosures would not be intended to implicate any additional expenditure of transitional support funds. We seek comment on this approach.

20. *Election of Transitional Support.* We propose that mobile carriers affirmatively elect to receive the transitional support, similar to the election process the Commission employed previously for mobile support. Eligible carriers would have a one-time opportunity to elect to receive transitional support in exchange for a commitment to specifically ensure service in their service areas and to use support only for the provision, maintenance, and upgrading of facilities and services for which the transitional support is intended. We seek comment on the election process for our proposed transitional support.

## **B. Extending Interim Support to Ensure Fixed Service in Puerto Rico and the U.S. Virgin Islands**

21. We next address the phase-down of frozen support adopted in the *2019 PR USVI Order*.<sup>58</sup> Carriers awarded fixed support to build out high-speed broadband networks with an emphasis on

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<sup>55</sup> 47 CFR § 54.1514(b); *2019 PR USVI Order*, 34 FCC Rcd at 9171-72, paras. 122-24.

<sup>56</sup> 47 CFR §§ 54.1514(d)-(f); 54.1515.

<sup>57</sup> See e.g., NIST Computer Security Resource Center, About the NIST Risk Management Framework (July 14, 2022), <https://csrc.nist.gov/projects/risk-management/about-rmf> (providing a system development process that prepares an organization to manage security and privacy risks by categorizing the system and information processed, stored and transmitted by the system, selecting and implementing controls to protect the system, and continuously assessing the system to determine if the controls are providing the desired results); NIST Computer Security Resource Center, Getting Started with the NIST Cybersecurity Framework: A Quick Start Guide (April 19, 2022), <https://csrc.nist.gov/Projects/cybersecurity-framework/nist-cybersecurity-framework-a-quick-start-guide> (providing a system development process that prepares an organization to identify, protect against, detect, respond to, and recover from cyber threats).

<sup>58</sup> Last year, Virgin Islands Telephone Company (Viya) petitioned the Bureau to waive the phase-down for Stage 2 fixed frozen support to more closely align with a Stage 2 winning applicant's six-year deployment period. Petition

(continued....)

resiliency and redundancy must complete 40% of their required buildout by the end of 2024, with an additional 20% of buildout required at the end of each subsequent year. However, as demonstrated by the damage caused by Hurricane Fiona, current telecommunications networks must be maintained and protected until the services on the new networks start to become available. Under our current rules, the phase-down in frozen support for incumbent carriers that did not win competitive support will be complete in June 2023, a full one and one-half years prior to the first interim milestone for the winning carriers in the competitive process. We are concerned that incumbent carriers may have insufficient resources to maintain their networks and ensure resiliency during this period.<sup>59</sup>

22. To ensure continuity of service throughout the Territories, we propose to freeze phase-down support to the incumbent LECs that did not win competitive support at 1/3 of their total legacy support until the winning applicant is required to meet its 60% deployment milestone by December 31, 2025. We conclude that this revised phase-down schedule for support strikes a more appropriate balance to ensure service in light of the heightened risks of hurricanes in the Territories during the 18-month gap in time following the end of the current phase-down schedule and first deployment milestone deadline of December 31, 2024, for winning applicants.<sup>60</sup> We seek comment on whether the period of time and amount of support we propose for additional phase-down support are appropriate.

23. We also propose that an incumbent LEC must limit its use of the phase-down support to resiliency and redundancy measures, consistent with the *2019 PR USVI Order*,<sup>61</sup> to continue hardening its network and that the LEC must at least maintain its current footprint for voice and broadband services. To provide oversight and accountability for the appropriate use of phase-down support, we propose to require an incumbent LEC interested in receiving this support to submit a spending proposal for its use of phase-down support for redundancy and resiliency measures to the Bureau for approval.<sup>62</sup> Should we impose any other specific uses or limitations, e.g., geographic limitation, for the use of additional phase-down support? What other obligations or commitments, if any, should apply to an incumbent LEC that receives additional phase-down support under our proposal? Should we adopt a formal procedural process to affirmatively accept additional phase-down support or authorize an incumbent LEC to opt out of receiving any additional phase-down support for redundancy and resiliency measures?

24. *Digital Equity and Inclusion.* Finally, the Commission, as part of its continuing effort to advance digital equity for all,<sup>63</sup> including people of color, persons with disabilities, persons who live in

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for Waiver of Transition Rules by Virgin Islands Telephone Corp. dba Viya, WC Docket No. 18-143, at 10 (filed Dec. 3, 2021) (Viya Phase-down Waiver Petition). Although the Bureau previously sought comment on the waiver petition, *Wireline Competition Bureau Seeks Comment on Viya Petition for Waiver of Phase Down Support*, Public Notice, WC Docket 18-143, DA 22-220 (WCB Mar. 3, 2022), we now seek comment on our specific proposal of an amended phase-down support schedule to ensure the availability of services in Puerto Rico and the U.S. Virgin Islands. We find it appropriate to address this waiver petition as part of our rulemaking process because the petition seeks to amend 47 CFR § 54.1504(b).

<sup>59</sup> See Viya Phase-down Waiver Petition, at 12.

<sup>60</sup> See 47 CFR § 54.1504; *Fixed Authorization Notices*, *supra* note 25.

<sup>61</sup> *2019 PR USVI Order*, 34 FCC Rcd at 9124-30, 91-98, paras. 27-33, Appx. B. While we encourage carriers receiving transitional support to further expand the availability of broadband services, their transitional support should be used to strengthen their existing networks rather than for expansion.

<sup>62</sup> We make clear that the obligations we propose in this *Further Notice* related to phase-down for fixed support do not otherwise negate or modify an ETC's existing reporting and certification obligations under the Bringing Puerto Rico Together Fund and the Connect USVI Fund.

<sup>63</sup> Section 1 of the Communications Act of 1934, as amended, provides that the FCC “regulat[es] interstate and foreign commerce in communication by wire and radio so as to make [such service] available, so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex.” 47 U.S.C. § 151.

rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality, invites comment on any equity-related considerations<sup>64</sup> and benefits (if any) that may be associated with the proposals and issues discussed herein. Specifically, we seek comment on how our proposals in this Further Notice may promote or inhibit advances in diversity, equity, inclusion, and accessibility, as well the scope of the Commission's relevant legal authority.

#### IV. PROCEDURAL MATTERS

25. *Paperwork Reduction Act Analysis.* This Further Notice may contain proposed modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget to comment on any information collection requirements contained in this document, as required by the PRA.<sup>65</sup> In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. § 3506(c)(4), we seek specific comment on how we might “further reduce the information collection burden for small business concerns with fewer than 25 employees.”<sup>66</sup>

26. *Initial Regulatory Flexibility Certification.* The Regulatory Flexibility Act of 1980 as amended (RFA) requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that “the rule will not have a significant economic impact on a substantial number of small entities.”<sup>67</sup> The RFA generally defines “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”<sup>68</sup> In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.<sup>69</sup> A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).<sup>70</sup>

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<sup>64</sup> The term “equity” is used here consistent with Executive Order 13985 as the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality. *See* Exec. Order No. 13985, 86 Fed. Reg. 7009, Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (Jan. 20, 2021).

<sup>65</sup> We note that there are currently four carriers receiving Stage 2 mobile support in the Territories: PRTC (Claro), Liberty Communications Puerto Rico (LCPR), and T-Mobile in Puerto Rico; and Viya (Choice and Vitelcom) and LCPR in the U.S. Virgin Islands. Therefore, we anticipate that rules adopted for mobile support pursuant to this Further Notice will ultimately not be subject to PRA. *See* 44 U.S.C. § 3502(3)(A)(i), (10). Similarly, there are three carriers receiving phase-down support for fixed service described in this Further Notice. Therefore, we anticipate the rules adopted for phase-down pursuant to this Further Notice will ultimately not be subject to PRA. *Id.*

<sup>66</sup> 44 U.S.C. § 3506(c)(4).

<sup>67</sup> 5 U.S.C. § 605(b).

<sup>68</sup> 5 U.S.C. § 601(6).

<sup>69</sup> 5 U.S.C. § 601(3) (incorporating by reference the definition of “small business concern” in Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”

<sup>70</sup> Small Business Act, 15 U.S.C. § 632.

27. This Further Notice proposes support to maintain, improve, and expand mobile services in Puerto Rico and the U.S. Virgin Islands. The Further Notice proposes making support available to a facilities-based mobile carrier that currently receives funding and that maintains its ETC designation using a subscriber-based process. Four mobile carriers in the Territories currently receive high-cost support and three carriers in the Territories currently receive phase-down high-cost support discussed in this Further Notice.<sup>71</sup> The Further Notice does not propose that other carriers will obtain an ETC designation to receive part of the additional support proposed by the Further Notice, so we do not anticipate the proposed rule to affect more than seven providers out of the 1,763 providers currently receiving high-cost support. Accordingly, we anticipate that this Further Notice will not affect a substantial number of carriers, and so we do not anticipate that it will affect a substantial number of small entities. Therefore, we certify that this Further Notice will not have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. § 605(b).

28. *Comments.* All comments to this Further Notice should be filed in WC Docket Nos. 10-90, Connect America Fund, and 18-143, The Uniendo a Puerto Rico Fund and the Connect USVI Fund. 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 on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <https://www.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of a proceeding, the Commission's rules require paper filers to submit two additional copies for each additional docket or rulemaking number.<sup>72</sup>
  - 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.<sup>73</sup>

29. *Ex Parte Presentations.* This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.<sup>74</sup> 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

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<sup>71</sup> *Stage 2 Reporting Deadline Public Notice*, at 3.

<sup>72</sup> 47 CFR § 1.419(c).

<sup>73</sup> *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>.

<sup>74</sup> 47 CFR § 1.1200 *et seq.*

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.

30. *People with Disabilities.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

## V. ORDERING CLAUSES

31. Accordingly, IT IS ORDERED, pursuant to the authority contained in sections 4(i), 214, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 214, 254, 303(r), and 403, and sections 1.1 and 1.421 of the Commission's rules, 47 CFR §§ 1.1 and 1.421, that this Further Notice of Proposed Rulemaking IS ADOPTED.

32. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 4(i), 214, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 214, 254, 303(r), and 403, and sections 1.1 and 1.421 of the Commission's rules, 47 CFR §§ 1.1 and 1.421, NOTICE IS HEREBY GIVEN of the proposals and tentative conclusions described in this Further Notice of Proposed Rulemaking.

33. IT IS FURTHER ORDERED that pursuant to applicable procedures set forth in sections 1.415 and 1.419 of the Commission's Rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments on the Further Notice of Proposed Rulemaking on or before 30 days from publication of this item in the Federal Register, and reply comments on or before 45 days from publication of this item in the Federal Register.

34. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary