

**STATEMENT OF  
COMMISSIONER JONATHAN S. ADELSTEIN  
APPROVING IN PART, DISSENTING IN PART**

*Re: VERIZON COMMUNICATIONS, INC., Transferor, and AMÉRICA MÓVIL, S.A. DE C.V., Transferee, Application for Authority to Transfer Control of Telecomunicaciones de Puerto Rico, Inc. (TELPRI); Memorandum Opinion and Order and Declaratory Ruling; WT Docket No. 06-113*

Pursuant to Sections 214(a) and 310(d) of the Act, the fundamental standard of review of a transfer of control by the Commission is whether the proposed transfer will serve the public interest, convenience, and necessity. Although I am deeply concerned about whether that standard has been satisfied by our review of the acquisition by América Móvil of Telecomunicaciones de Puerto Rico, Inc., the corporate parent of Puerto Rico Telephone Company (PRTC), I am pleased that this Order includes a last minute commitment from América Móvil that it will make significant infrastructure investments in Puerto Rico's communications and information services.

But for this late development, the record in this proceeding has been overwhelming – the public interest is not served by this transaction absent the adoption of meaningful conditions designed to promote investment in the PRTC infrastructure, to promote broadband deployment, to improve service quality, and to facilitate competitive options on the Island. While the U.S. currently experiences a basic telephone penetration rate of roughly 95%, the rate for telephone penetration in Puerto Rico has dipped to roughly 60% and continues to fall. The DSL services that are available on the Island are \$30-\$50 more expensive than service in the continental U.S. The four million U.S. citizens residing in Puerto Rico have suffered with sub-standard communications for far too long and deserve the types of services and products that the rest of the United States currently expects and enjoys.

Without conditions, there is no expectation that this transaction will reverse that troubling trend. Indeed, the record suggests otherwise. América Móvil is, with limited exceptions, a wireless company, with only 2% of its customer base served by wireline. The alleged benefits advanced by the company in acquiring PRTC, as vague as they are, largely address wireless network changes. And the company's purported experience with managing wireline networks is limited to operations with telephone penetration rates ranging from 3.8% to 13.8%. Turning over the keys to PRTC without any meaningful condition of investment by América Móvil in the Island's telephone service would have been irresponsible.

Indeed, we have heard from a chorus of respected Puerto Rican leaders expressing concerns about the proposed transaction. They speak from their own personal experiences with the current state of disrepair of the PRTC network. They raise a host of objections to the transaction including valid concerns of service quality (“[t]here are no credible tangible benefits for the consumer in Puerto Rico described in the application ... the FCC [should] condition approval of the transfer upon PRTC adhering to specific qualify of service measurement and

reporting regulations”<sup>1</sup>), broadband deployment (“I have been particularly concerned about the need to promote investment in the Island’s telephone infrastructure. ... Such action by the FCC is necessary if the residents of Puerto Rico are to receive the benefits to be derived from the widespread deployment of advanced services”<sup>2</sup>), and national security (“national security could be in jeopardy if the FCC does not take the necessary precautions ... the day-to-day wire-line communications of federal and local government agencies, including those concerned with national and local security, would be accessible to a foreign corporation”<sup>3</sup>). There are no special measures proposed by our national security agencies or the FCC to address these operational concerns. These are all serious issues and would have benefited from more attention than what we offer today.

We hear so much about promoting broadband deployment, but here the Commission has a specific opportunity to promote the public interest and to reverse the troubling decline of telecommunications services in Puerto Rico. Without conditions, this transaction would offer little in response to what some commenters have identified as a public crisis. Despite these grave misgivings, I am persuaded to approve the part of this Order that conditions approval on América Móvil’s commitment to making a substantial infrastructure investment in Puerto Rico’s communications and information services – one billion dollars over five years – and the Commission’s decision to require the company to submit a written report on an annual basis describing the progress it has made in deploying infrastructure used to provide basic telephone and broadband services in Puerto Rico.

I appreciate the Chairman’s willingness to work with Commissioner Copps and me to secure these infrastructure investment conditions. These provisions give modest hope to consumers that they may experience some change for the better, although the proof will be measured not in last minute conditions but in actual progress. Consumers would have been better served had this proposal been made earlier in this proceeding, with the opportunity for greater input. This Order and these conditions also would be improved if we were able to specify with greater detail how this infrastructure investment will be implemented, targeting efforts to revitalize the deteriorating network infrastructure and to expand service to underserved and rural areas. However, I find that, on balance, these conditions are worthy of support.

I also urge the Commission to engage in a more coherent effort to ensure that these conditions are fully implemented and that the benefits of high quality service are delivered to the citizens of Puerto Rico. I have seen little to suggest that the Commission has engaged in a thorough review of previous infrastructure commitments to improve telephone service on the Island. The troubling state of service in Puerto Rico should highlight the importance of doing more rigorous job of oversight going-forward.

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<sup>1</sup> Telecommunications Regulatory Board of Puerto Rico, Petition to Deny of the Telecommunications Regulatory Board of Puerto Rico at 2 (July 14, 2006).

<sup>2</sup> Letter from Hon. Luis G. Fortuño, U.S. Member of Congress, to Chairman Kevin J. Martin, Federal Communications Commission (August 11, 2006).

<sup>3</sup> The Honorable Kenneth D. McClintock and Orlando Parga, Senators of Puerto Rico, Motion to Address Public Interest Concerns at 5 (July 13, 2006).

Finally, I am troubled with the foreign ownership and national security components of this transaction and must dissent from these findings. While I am usually comfortable with appropriately documented foreign ownership that complies with the statute and our existing rules and precedent, the unidentified foreign equity and voting interests that are at issue here give me serious pause. I want to highlight that concern and make clear my position that the remedy advanced in the Declaratory Ruling to deal with possible ownership by investors from non-WTO members should not be considered as precedent for any future transactions that similarly fall far short of our foreign ownership obligations.

For all these reasons, I approve in part, dissent in part.