

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

In the Matter of	)	
	)	
The Uniendo a Puerto Rico Fund and the Connect USVI Fund	)	WC Docket No. 18-143
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
ETC Annual Reports and Certifications	)	WC Docket No. 14-58

**ORDER AND NOTICE OF PROPOSED RULEMAKING**

**Adopted: May 8, 2018**

**Released: May 29, 2018**

**Comment Date: (21 days after date of publication in the Federal Register)**

**Reply Comment Date: (35 days after date of publication in the Federal Register)**

By the Commission: Chairman Pai and Commissioners Clyburn, O’Rielly, and Carr issuing separate statements; Commissioner Rosenworcel approving in part, dissenting in part and issuing a statement.

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**I. INTRODUCTION**

1. The 2017 hurricane season caused widespread devastation to Puerto Rico and the U.S. Virgin Islands, destroying thousands of homes and causing near total destruction of critical infrastructure. Hurricane Maria, the strongest storm to hit Puerto Rico in almost a century,<sup>1</sup> ripped through the island as

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<sup>1</sup> Gadi Schwartz et al., *All Power Out as Hurricane Maria’s Winds, Floods Crush Puerto Rico* (Sept. 21, 2017), <https://www.nbcnews.com/news/weather/hurricane-maria-makes-landfall-puerto-rico-category-4-storm-n802911>.

a Category 4 storm with 155-mph winds.<sup>2</sup> Following on the heels of Hurricane Irma, Maria's damage to the communications network proved particularly devastating. The government of Puerto Rico estimates that the two hurricanes caused approximately \$1.5 billion of damage to the communications network.<sup>3</sup> Similarly, Maria "decimat[ed] the communications and power grid" across St. Croix, the largest of the U.S. Virgin Islands.<sup>4</sup> And the "[t]wo other main islands, St. John and St. Thomas, [had been] pummeled by Hurricane Irma just 14 days earlier."<sup>5</sup> Recovery of the communications networks in Puerto Rico and the U.S. Virgin Islands has proven especially challenging, particularly compared to other locations in the United States impacted by this season's hurricanes, due to their isolation from the mainland, which has caused logistical difficulties and contributed to ongoing electrical power outages.<sup>6</sup>

2. Restoring communications networks is a critical element of recovery. Today we establish the Uniendo a Puerto Rico<sup>7</sup> Fund and the Connect USVI Fund to rebuild, improve and expand voice and broadband networks in Puerto Rico and the U.S. Virgin Islands.

3. Through the Uniendo a Puerto Rico Fund, we will make available up to \$750 million of funding to carriers in Puerto Rico, including an immediate infusion of \$51.2 million for restoration efforts in 2018. Of the remainder, we propose that about \$444.5 million would be made available over a 10-year term for fixed voice and broadband (an \$84 million increase over current funding levels) and that about \$254 million would be made available over a 3-year term for 4G Long-Term Evolution (LTE) mobile voice and broadband (a \$16.8 million increase).

4. Through the Connect USVI Fund, we will make available up to \$204 million of funding to carriers in the U.S. Virgin Islands, including an immediate infusion of \$13 million for restoration efforts in 2018. Of the remainder, we propose that about \$186.5 million would be made available over a 10-year term for fixed broadband (a \$21 million increase) and that about \$4.4 million would be made available over a 3-year term for 4G LTE mobile voice and broadband (a \$4.2 million increase).

5. As a result of these Funds, as well as our decision today not to offset more than \$65 million in advance payments we made to carriers last year,<sup>8</sup> we will make available up to \$256 million in additional high-cost support for rebuilding, improving, and expanding broadband-capable networks in Puerto Rico and the Virgin Islands. We seek comment on how best to structure the second stage of these Funds to speed longer-term efforts to rebuild fixed and mobile voice and broadband networks in the territories and harden them against future natural disasters. We intend to target high-cost support over the next several years in a tailored and cost-effective manner, using competitive processes where appropriate.

## II. BACKGROUND

6. Recognizing the devastation to the communications networks following the hurricanes that ravaged Puerto Rico and the U.S. Virgin Islands, the Commission took numerous actions to facilitate

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<sup>2</sup> Kevin Loria, *Hurricane Maria Is Thrashing the Caribbean* (Sept. 22, 2017), <http://www.businessinsider.com/hurricane-maria-path-track-update-2017-9>.

<sup>3</sup> Letter from Sandra E. Torres López, Chairwoman, Puerto Rico Telecommunications Regulatory Board, to Ajit Pai, Chairman, FCC, WC Docket No. 10-90, at 1 (filed Dec. 13, 2017) (PRTRB Letter).

<sup>4</sup> Morgan Winsor, *US Virgin Islands in Ruins from Hurricane Maria* (Sept. 29, 2017), <http://abcnews.go.com/amp/International/us-virgin-islands-ruins-hurricane-maria/story?id=50178300>.

<sup>5</sup> *Id.*

<sup>6</sup> Congress recently enacted legislation that earmarked \$2 billion for restoring power in Puerto Rico. *See, e.g.,* Patricia Mazzei, *What Puerto Rico Is, and Isn't, Getting in Disaster Relief*, N.Y. Times (Feb. 8, 2018), <https://www.nytimes.com/2018/02/08/us/puerto-rico-disaster-relief.html>. As noted below, any funds received from other federal sources must not duplicate the funding we provide here.

<sup>7</sup> This Spanish phrase means "Bringing Puerto Rico Together."

<sup>8</sup> *See Connect America Fund*, Order, 32 FCC Rcd 7981, 7981, para. 3 (2017) (*2017 Hurricane Funding Order*).

recovery and restoration in affected areas.<sup>9</sup> These actions included granting more than 200 requests for special temporary authority and issuing more than 30 public notices and orders to support incident response and service recovery.<sup>10</sup> Commission staff also allowed for the flexible use of numbering resources.<sup>11</sup> And the Commission leveraged programs available through the Universal Service Fund (USF) to provide financial and other support to qualifying entities. For example, Commission staff issued orders and waivers of rules related to the Lifeline, E-rate, and Rural Health Care Programs, as well as those relating to USF contributions obligations.<sup>12</sup>

7. Notably, in addition to the \$10.99 million the USF already directs to Puerto Rico and the U.S. Virgin Islands each month for the maintenance and upgrading of voice and broadband networks, we made available advanced payments of approximately \$77 million in high-cost support for both fixed and mobile carriers serving Puerto Rico and the U.S. Virgin Islands.<sup>13</sup> Approximately \$65.8 million was ultimately accepted and disbursed. The advance payments were intended “to facilitate expeditious restoration of essential communications services across all affected areas.”<sup>14</sup> We stated that the advance payments were “not . . . additional support” but instead an “accelerat[ion] [of] the delivery date of existing funding levels” and that we planned to “revisit the support payment schedule prior to the April 2018 payments” and to “consider at that time a schedule for offsetting advanced funds against future payments due.”<sup>15</sup>

8. While many parties expressed support for the relief provided in the *2017 Hurricane Funding Order*,<sup>16</sup> they also stated that further action is needed. The Puerto Rico Telecommunications Regulatory Board (PRTRB), for example, noted that the advance payment “has helped the restoration of

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<sup>9</sup> *Public Safety and Homeland Security Bureau Seeks Comment on Response Efforts Undertaken During 2017 Hurricane Season Response Efforts*, PS Docket No. 17-344, Public Notice, DA 17-1180 (PSHSB Dec. 7, 2017).

<sup>10</sup> See, e.g., *Public Safety and Homeland Security Bureau Temporarily Waives Location Accuracy Obligations for 911 Calls for Certain Providers in Areas Affected by Hurricane Maria*, Public Notice, 32 FCC Rcd 7493 (PSHSB Oct. 10, 2017) (waiving, temporarily, location requirements for providers affected by Hurricane Maria that utilize a network-based location solution); *Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau Extend Filing and Regulatory Deadlines and Streamline Environmental Notification Process for Areas Affected by Hurricane Maria*, Public Notice, 32 FCC Rcd 7453 (WTB & PSHSB Oct. 6, 2017) (waiving *inter alia*, “filings regarding certain minor license modifications, license renewals, and notifications of construction”) (footnote omitted).

<sup>11</sup> See *Telephone Number Portability, Numbering Resource Optimization*, Order, 32 FCC Rcd 6723 (WCB 2017) (waiving the number portability rules to allow carriers to port numbers to destinations outside the affected rate centers due to damage to the communications systems).

<sup>12</sup> See *Telephone Number Portability et al.*, 32 FCC 6831 (WCB 2017) (waiving numbering rules); *Lifeline and Link Up Reform and Modernization et al.*, 32 FCC Rcd 6846 (WCB 2017) (waiving Lifeline rules); *Lifeline and Link Up Reform and Modernization et al.*, 32 FCC Rcd 6860 (WCB 2017) (additional Lifeline waivers); *Telephone Number Portability et al.*, 32 FCC Rcd 7005 (WCB 2017); *Schools and Libraries Universal Service Support Mechanism et al.*, 32 FCC Rcd 7456 (WCB 2017); *Lifeline and Link Up Reform and Modernization et al.*, 32 FCC Rcd 9240 (WCB 2017) (Lifeline waiver extensions); *Schools and Libraries Universal Support Mechanism*, 32 FCC Rcd 9538 (2017) (providing flexibility to E-rate schools).

<sup>13</sup> *2017 Hurricane Funding Order*, 32 FCC Rcd at 7985, para. 14.

<sup>14</sup> *Id.* at 7985, para. 15.

<sup>15</sup> *Id.* at 7985, para. 14.

<sup>16</sup> For example, T-Mobile has described the tremendous effort and capital required post-hurricane to restore and provision service in Puerto Rico and noted that the accelerated USF support was very helpful in restoring damaged telecommunications infrastructure. Letter from Kathleen O’Brien Ham, Senior Vice President, Government Affairs, T-Mobile, to Ajit Pai, Chairman, FCC, WC Docket No. 10-90, at 1 (filed Oct. 11, 2017).

telecommunications services,”<sup>17</sup> but requested further relief through “a new high-cost support mechanism that provides significant incentives to further network build-out” on the island, in the vein of the specific programs the Commission established for Alaska and Tribal lands.<sup>18</sup> PRTRB representatives particularly commented that more needs to be done to direct USF support toward rural areas.<sup>19</sup> The Puerto Rico Telephone Company (PRTC) similarly commented that additional “financial assistance targeted specifically at restoration of service efforts is desperately needed.”<sup>20</sup> PRTC requested that we create a \$200 million emergency USF fund to facilitate restoration of service in Puerto Rico.<sup>21</sup> PRWireless, Inc., d/b/a/ Open Mobile (Open Mobile), a competitive eligible telecommunications carrier (ETC) in Puerto Rico, sought additional high-cost support and an advance on support payments.<sup>22</sup>

9. In the U.S. Virgin Islands, Vitelco d/b/a Viya (Viya) and its affiliated entities have asked that we allocate additional support to help restore fixed and mobile service.<sup>23</sup> Specifically, Viya proposes a one-time infusion of up to \$45 million to help it restore its fixed network and an additional one-time infusion of up to \$50 million for carriers to restore mobile networks using hurricane-hardened facilities.<sup>24</sup>

### III. ORDER: NO OFFSET OF ADVANCE PAYMENTS

10. At the outset, we now decline to offset the approximately \$65.8 million in emergency high-cost support provided immediately following the hurricanes against future payments.<sup>25</sup> Although we had previously anticipated offsetting the advance payments against future support,<sup>26</sup> we no longer believe that to be a prudent course. The continuing difficulties in bringing service and power back to Puerto Rico and the U.S. Virgin Islands have impeded and delayed restoration efforts so that conditions on the islands have not improved sufficiently to justify reducing future support payments. Restoration efforts are still ongoing rather than largely complete and persistent power outages and other logistical challenges have made the continued operation of restored networks more expensive than some expected. As such, requiring the offset of advance payments would substantially delay, if not prevent, further restoration efforts—and we find that the public interest is best served by allowing carriers to continue their critical work to restore their communications networks. We therefore decline to offset future payments against the emergency relief granted by the *2017 Hurricane Funding Order*.

11. As a result, we will continue in 2018 to provide, at a minimum, current levels of high-cost support to carriers in Puerto Rico and the U.S. Virgin Islands.<sup>27</sup> This means that in Puerto Rico, the

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<sup>17</sup> Letter from Douglas Meredith, Economic Advisor to the Telecommunications Regulatory Board of Puerto Rico, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90, PS Docket No. 17-344, at 1-2 (filed Jan. 24, 2018) (PRTRB *Ex Parte*).

<sup>18</sup> PRTRB Letter at 2.

<sup>19</sup> *Id.* Attach. at 6.

<sup>20</sup> Petition of Puerto Rico Telephone Company, Inc. for the Creation of an Emergency Universal Service Fund, WC Docket No. 10-90, at 6 (filed Jan. 19, 2017) (PRTC Emergency USF Petition).

<sup>21</sup> PRTC Emergency USF Petition.

<sup>22</sup> PRWireless, Inc. dba Open Mobile Emergency Petition for Waiver and Other Relief, WC Docket No.10-90 et al., at 10 (filed Oct. 4, 2017) (Open Mobile Petition).

<sup>23</sup> Emergency Petition of Virgin Islands Telephone Corp. dba Viya for Wireline Hurricane Restoration Support, WC Docket No. 10-90 (filed Dec. 6, 2017) (Viya Emergency Wireline Petition); Vitelcom Cellular, Inc. Emergency Petition, WC Docket No. 10-90, at 1 (filed Oct. 5, 2017) (Vitelcom Emergency Petition).

<sup>24</sup> *Id.*

<sup>25</sup> See *2017 Hurricane Funding Order*, 32 FCC Rcd at 7987, Appx.

<sup>26</sup> *Id.* at 7985, para. 14.

<sup>27</sup> These amounts reflect the amount of frozen support authorized by Phase I of the Connect America Fund (CAF), pursuant to the comprehensive reforms adopted by the Commission in 2011. See *Connect America Fund et al.*,

fixed carrier (PRTC) will continue to receive approximately \$3 million each month (or \$36 million annualized) and mobile carriers (Centennial Puerto Rico Operations Corp., Suncom Wireless Puerto Rico Operating Co., Cingular Wireless, Puerto Rico Telephone Company, PR Wireless Inc., and Worldnet Telecommunications, Inc.) will continue to receive approximately \$6.6 million each month (or \$79.2 million annualized) in frozen support in the near term. In the U.S. Virgin Islands, the fixed carrier (Viya) will continue to receive approximately \$1.4 million each month (or \$16.5 million annualized) and the mobile carrier (Choice Communications, LLC) will continue to receive approximately \$5,600 each month (or \$67,000 annualized) in frozen support in the near term.

12. Also as a result of this decision, the advance payments should be considered a new, one-time source of high-cost support provided in the immediate aftermath of the hurricanes. The same rules and accountability measures as currently govern the frozen high-cost support these carriers receive will continue to apply.<sup>28</sup> We will also apply our accounting and audit rules to prevent waste, fraud, and abuse.<sup>29</sup> For the reasons given in section IV.A.2 below, we find good cause to forego the usual notice-and-comment procedure for this Order.

#### IV. THE UNIENDO A PUERTO RICO FUND AND THE CONNECT USVI FUND

13. We will establish the Uniendo a Puerto Rico Fund and the Connect USVI Fund in two stages. In stage one, we make \$51.2 million in new funding available to Puerto Rico and \$13 million to the U.S. Virgin Islands to help restore voice and broadband service. We provide this immediate relief to allow impacted carriers to rebuild more quickly in 2018 and set the stage for the longer-term plan we describe in the Notice of Proposed Rulemaking (Notice) below. In stage two, we propose to make about \$699 million available in the Uniendo a Puerto Rico Fund and about \$191 million available in the Connect USVI Fund to rebuild, improve, and expand voice and broadband networks on the islands in the longer term.

##### A. Order: Stage 1 Funding for Immediate Restoration

14. We find that it is in the public interest to provide new funding in the short term to restore service in Puerto Rico and the U.S. Virgin Islands. Given the devastation wrought by these two back-to-back hurricanes, which collectively were unprecedented in their severity and in the protracted duration of damage they caused, we decide to make available up to \$64.2 million of new funding—roughly equal to the amount we have decided not to offset against existing support payments—to bolster the ability of existing carriers to restore their facilities across the islands. This additional support should help restore and maintain service as quickly as possible for as many people as possible during that interim period.

15. Specifically, we direct a one-time infusion of \$51.2 million through the Uniendo a Puerto Rico Fund and \$13 million through the Connect USVI Fund to support any facilities-based providers of voice and broadband services even if they have not previously received universal service support. We find this allocation of support (in addition to existing support streams) to be likely sufficient to cover the short-term costs of restoration while the Commission considers further reforms and funding over the longer term. In so finding, we take into account, among other factors, differences in landmass, geography, topography, and population between Puerto Rico and the U.S. Virgin Islands, the significant

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Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17712, para. 128 (2011) (*USF/ICC Transformation Order* and/or *NPRM*); Letter from Thomas J. Navin, Counsel to Puerto Rico Telephone Company, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90 (filed Dec. 22, 2014); Letter from Russell M. Blau, Counsel to Virgin Islands Telephone Corporation d/b/a Innovative Communications, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90 (filed Dec. 29, 2014). The Commission has frozen legacy support for mobile carriers at 60 percent of the monthly baseline support amount pending completion of the MF-II Auction. *See* 47 CFR § 54.307(e).

<sup>28</sup> *See, e.g.*, 47 CFR § 54.313(a), (c).

<sup>29</sup> *See, e.g.*, 47 CFR § 54.320.

financial and operational challenges faced by carriers in both areas, and the past and current availability of high-cost support to carriers.<sup>30</sup>

### 1. Allocating Stage 1 Funding

16. We distribute the Stage 1 funding for each territory through a three-step process. First, any facilities-based provider of voice and broadband Internet access service may elect to participate in this opportunity for new restoration funding. To participate, a facilities-based provider must submit a certification regarding the number of subscribers (voice or broadband Internet access service) it served in the territory as of June 30, 2017 (before the hurricanes), along with accompanying evidence, to the Commission within 14 days of the publication of this Order.<sup>31</sup> Providers also must file a copy of the certification and accompanying evidence through the Commission's Electronic Comment Filing System (ECFS) as well as email a copy to [ConnectAmerica@fcc.gov](mailto:ConnectAmerica@fcc.gov). The Commission will then verify eligibility using various data sources, including FCC Form 477 data.<sup>32</sup>

17. Second, we allocate 60 percent of the funding available to the territory to fixed network operators and 40 percent to mobile network operators. We do so for two reasons. For one, allocating more to fixed service providers is appropriate in light of the relatively higher costs of restoring fixed services.<sup>33</sup> For another, we expect that restoring and improving the fixed network will facilitate more reliable and faster backhaul for the mobile services. In other words, new funding for fixed networks may in fact decrease at least some of the need for funding of mobile networks.

18. Third, we direct the Wireline Competition Bureau (WCB) and the Wireless Telecommunications Bureau (WTB) to allocate these amounts among qualifying providers of each territory and type according to the number of subscribers (voice or broadband Internet access service) each served as of June 30, 2017. The Bureaus shall make public these allocations via a Public Notice as soon as practicable.

19. We note that to be eligible for funding, the provider must be willing at the time of certification to be designated an eligible telecommunications carrier (ETC) by the relevant commission, must in fact become an ETC and submit that designation to the Universal Service Administrative Company (USAC) before receiving any funding, and must remain an ETC for at least one year after first receiving funding.<sup>34</sup> Given the importance of conducting restoration operations as quickly as possible, we expect local regulators and providers to work together to designate ETCs as quickly as possible. If a provider has not been designated an ETC within 60 days of the Bureaus' announcement of support allocations, we reserve the right to redirect that provider's allocation toward other universal service purposes, such as increasing the funding available for long-term rebuilding of voice and broadband-capable networks in Puerto Rico and the U.S. Virgin Islands.

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<sup>30</sup> See, e.g., Comments of Viya, PS Docket No. 17-344, at 3 (filed Jan. 22, 2018) (Viya Hurricane Response Comments).

<sup>31</sup> A voice-only subscriber, a broadband-only subscriber, and a voice-and-broadband subscriber each count as one subscriber. For mobile network operators, each line in a multi-line plan counts as one subscriber. For fixed network operators, each enterprise location served counts as one subscriber; such treatment reflects the high fixed costs of deploying service to any one location as well as the higher revenue potential of enterprise customers. We use the same definition of voice and broadband subscribers as applies to FCC Form 477 reporting. See, e.g., FCC Form 477, Local Telephone Competition and Broadband Reporting Instructions, <https://www.fcc.gov/form477/477inst.pdf>.

<sup>32</sup> For example, we may rely on publicly available information such as published financial statements and advertisements among others.

<sup>33</sup> See Comments of Puerto Rico Telephone Company, Inc., PS Docket No. 17-344, at 7-8 (filed Jan. 22, 2018); Comments of T-Mobile USA, Inc., PS Docket No. 17-344, at 12-13 (filed Jan. 22, 2018).

<sup>34</sup> A provider must be designated as an ETC to receive high-cost support. 47 U.S.C. § 214(e)(2), (7). If a provider ceases to be an ETC before a one-year term is complete, it shall return a pro-rata share of the restoration funds it received to the Fund.

20. We remind providers that section 254(e) of the Act and section 54.7 of the Commission's rules provide that carriers receiving federal universal service support "shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended."<sup>35</sup> Carriers must therefore use this additional funding to help restore and improve coverage and service quality to pre-hurricane levels and to help safeguard their equipment against future natural disasters. Appropriate uses include repairing, removing, reinforcing or relocating network elements damaged during the hurricanes; repairing or restoring customer premise equipment; replacing, rebuilding, and reinforcing the physical outside plant (poles, fiber, nodes, coaxial cables, and the like); hardening networks against future disasters; and increasing network resiliency to power outages or other potential service interruptions due to natural disasters.<sup>36</sup> To help ensure that support is targeted towards short-term restoration and rebuilding expenses, we limit eligible expenditures to those incurred through June 30, 2019, beginning from the date that the affected areas were declared a disaster by the Federal Emergency Management Agency following Hurricanes Irma and Maria.<sup>37</sup> Carriers will be required to certify both at the time of acceptance of support and after support is spent that all support was used for the intended purpose.<sup>38</sup> We also note that, during the short term when networks are still being restored, backhaul from fixed-service providers is essential to the provision of mobile services and we require providers seeking restoration funding to offer backhaul to all interested parties on nondiscriminatory terms for a period of one year after first receiving funds.<sup>39</sup> We remind Puerto Rico and the U.S. Virgin Islands that the Act prohibits the territories from adopting regulations related to funding that are "inconsistent with the Commission's rules to preserve and advance universal service."<sup>40</sup>

21. To protect against duplicative recovery and guard against waste, fraud, and abuse, carriers may not use this support for costs that are (or will be) reimbursed by other sources of funding inclusive of federal or local government aid or insurance reimbursements.<sup>41</sup> Moreover, carriers are prohibited from using Stage 1 support for other purposes, such as the retirement of company debt unrelated to eligible expenditures, or other expenses not directly related to hurricane restoration and improvement.<sup>42</sup> We remind carriers that high-cost support recipients "are subject to random compliance audits and other investigations to ensure compliance with program rules and orders."<sup>43</sup> Carriers must retain for at least ten years the records required to demonstrate that their use of this support complied with this Order and other Commission rules.<sup>44</sup> We direct USAC to initiate audits of Stage 1 disbursements in conjunction with its 2018 audits.

22. We acknowledge that we are not allocating the new funding in proportion to frozen high-cost support. That is in large part because those frozen allocations were by and large established at least

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<sup>35</sup> 47 U.S.C. § 254(e); 47 CFR § 54.7(a).

<sup>36</sup> See, e.g., Viya Emergency Wireline Petition at 9-10 (specifying several specific activities that should be eligible for support); Letter from Raquel Noriega, Director, Federal Regulatory, AT&T, to Marlene Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90, WT Docket No. 10-208, 1-2 (filed April 20, 2018) (recommending non-exhaustive list of appropriate uses of funding) (AT&T Ex Parte); see also, *Connect America Fund, et al.*, WC Docket No. 10-90 et al., Report and Order, Third Order on Reconsideration, and Notice of Proposed Rulemaking, FCC 18-29, Section III.A (2018).

<sup>37</sup> See <https://www.fema.gov/disasters>. AT&T Ex Parte at 2.

<sup>38</sup> See 47 U.S.C. § 254(e); 47 CFR §§ 54.7, 54.314.

<sup>39</sup> Failure to abide by this condition may result in the loss of some or all restoration funding.

<sup>40</sup> 47 U.S.C. § 254(f).

<sup>41</sup> See, e.g., Viya Emergency Wireline Petition at 12; Open Mobile Petition at 7.

<sup>42</sup> AT&T Ex Parte at 2.

<sup>43</sup> 47 CFR § 54.320(a).

<sup>44</sup> *Id.* § 54.320(b).



seven years ago and do not necessarily reflect the costs of providing or restoring service or the extent of today's networks. Indeed, if we were to follow such allocation, wireless carriers in Puerto Rico would receive approximately 1,177 times the support of such carriers in the U.S. Virgin Islands—a strange result given that Puerto Rico is only 33 times larger than the U.S. Virgin Islands.<sup>45</sup> And networks owned by those not historically universal-service recipients would be entirely excluded—despite the damage they incurred from the hurricanes. Instead, we believe the relative size of each network, coupled with a recognition that fixed service networks generally require greater funding for restoration efforts and the need to provide non-contiguous service in the U.S. Virgin Islands, better reflect the likely costs of restoration.<sup>46</sup>

## 2. Procedural Issues

23. We find that using notice and comment procedures for this interim and one-time relief, and thereby delaying its effectiveness by at least several months, would be impracticable and contrary to the public interest.<sup>47</sup> The good cause exception to the notice and comment procedures of the Administrative Procedures Act “excuses notice and comment in emergency situations, or where delay could result in serious harm.”<sup>48</sup>

24. Given the emergency situation and the devastation to communications networks caused by the hurricanes, the sooner providers receive additional funds, the sooner service can be restored to the people of Puerto Rico and the U.S. Virgin Islands.<sup>49</sup> As noted above, Hurricane Maria was a once-in-a-century storm that caused devastating damage. Even after months of recovery efforts, “the majority of citizens in Puerto Rico lack access to continuous and reliable telecommunications services.”<sup>50</sup> Similarly, “only a small percentage of Viya’s wireline customers have had their voice, broadband, and cable service restored, and there are still significant gaps in Viya’s USVI wireless coverage.”<sup>51</sup> Voice and broadband-capable networks, of course, serve important public safety goals (including allowing the public to quickly notify first responders of emergencies).<sup>52</sup> And the next hurricane season will commence on June 1, 2018. Delaying these funds could result in serious harm if carriers are not able to restore and fortify their service before the start of the next hurricane season. Such efforts will take significant time, and we wish to help the carriers proceed as rapidly as possible.

25. We are also concerned that some carriers might choose cheaper restoration plans that leave equipment vulnerable to another hurricane over more costly restoration plans that better protect against future natural disasters.<sup>53</sup> Further, unlike other affected areas, Puerto Rico and the U.S. Virgin

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<sup>45</sup> We note that only one mobile provider currently receives monthly high-cost support in the U.S. Virgin Islands, totaling \$5,605, compared to the \$6.6 million awarded to six mobile providers in Puerto Rico. *See 2017 Hurricane Funding Order*, 32 FCC Rcd at 7987, Appx.

<sup>46</sup> As discussed earlier, we also recognize that disrupting the existing flow of frozen support is likely to harm restoration efforts, especially in more rural areas where those receiving historical support are more likely to serve.

<sup>47</sup> 5 U.S.C. § 553(b).

<sup>48</sup> *Jifry v. FAA*, 370 F.3d 1174, 1179 (D.C. Cir. 2004) (citations omitted).

<sup>49</sup> We note that carriers in these insular areas bear “significant shipping and storage expenses” from having to ship equipment and supplies over water. PRTC Emergency USF Petition at 6; Viya Hurricane Response Comments at 3 (“[T]he time and expense entailed in shipping telecommunications facilities to, and even within, the Territory increases the difficulty of providing seamless service across Viya’s operational footprint”).

<sup>50</sup> PRTC Emergency USF Petition at 1.

<sup>51</sup> Viya Hurricane Response Comments at 9.

<sup>52</sup> *See, e.g., id.* at 21-23.

<sup>53</sup> *See, e.g.,* Letter from L. Charles Keller, Counsel for ATN International, Inc., to Marlene H. Dortch, Secretary, FCC (Feb. 2, 2018) (explaining that Viya faces “crucial decision points over the next two to four weeks in terms of



Islands have struggled to restore electrical power.<sup>54</sup> One provider explains that “[t]he principal cause of communications outages and network unreliability in Puerto Rico undoubtedly has been the continued lack of commercial power and long-term reliance on backup generators.”<sup>55</sup> Based on these unique circumstances, we find that the need for rapid action provides good cause for forgoing the usual administrative procedures in this unique situation.

26. We further find good cause to make this relief effective immediately upon publication in the Federal Register.<sup>56</sup> “In determining whether good cause exists, an agency should ‘balance the necessity for immediate implementation against principles of fundamental fairness which require that all affected persons be afforded a reasonable amount of time to prepare for the effective date of its ruling.’”<sup>57</sup> This interim relief imposes no regulatory burden on any carrier but merely offers funds to help their restoration efforts. We therefore do not believe it would violate fundamental fairness to make the rule effective immediately, particularly given the substantial need for immediate implementation of the relief, which only exists during calendar year 2018. Indeed, waiting 30 days to make this relief available “would undermine the public interest by delaying” restoration of service in hurricane-ravaged areas.<sup>58</sup>

27. Finally, given the urgent need to bring service back to pre-hurricane levels as soon as possible, we find good cause to extend our previous waiver of section 54.313(c)(4) of the Commission’s rules, which requires carriers receiving frozen support to certify that all support is used “to build and operate broadband-capable networks used to offer the provider’s own retail broadband service in areas substantially unserved by an unsubsidized competitor.”<sup>59</sup>

## **B. Notice: Stage 2 Funding for Long-Term Rebuilding**

28. We recognize that a longer-term solution is needed to rebuild, improve, and expand service in Puerto Rico and the U.S. Virgin Islands given the widespread devastation to communications networks caused by the hurricanes. In this Notice, we propose to establish second stages for the Uniendo a Puerto Rico Fund and the Connect USVI Fund—one that would make available about \$699 million through the Uniendo a Puerto Rico Fund and about \$191 million through the Connect USVI Fund.

29. As background, the USF currently directs approximately \$36 million each year to fixed services in Puerto Rico and \$16 million each year to fixed services in the U.S. Virgin Islands, along with \$79.2 million each year to mobile services in Puerto Rico and only \$67,000 each year to mobile services in the U.S. Virgin Islands. However, none of this funding is tied to specific, accountable build-out targets. We now seek comment on revisiting that spending to ensure there is sufficient support for the

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how it will reconstruct its networks, and these decisions will be driven in part by the availability of funding for restoration of the networks” and thus “urg[ing] the Commission to act as expeditiously as possible”).

<sup>54</sup> See, e.g., Comments of Neptuno Networks, PS Docket No. 17-344, at 2 (filed Jan. 22, 2018) (explaining that “more than four months after the storm passed, at least *half* of Neptuno’s network sites continue to run on backup generators — all at a cost of millions of dollars in equipment and fuel”); Comments of Puerto Rico Telephone Company, Inc., PS Docket No. 17-344, at 5 (filed Jan. 22, 2018) (“Of PRTC’s nearly 800 cell sites that are currently operational, more than 60 percent of them rely exclusively on backup generator power to sustain operations . . .”).

<sup>55</sup> Comments of Neptuno Networks, PS Docket No. 17-344, at 2; Comments of T-Mobile USA, Inc., PS Docket No. 17-344, at 12 (filed Jan. 22, 2018) (“[T]he pace of wireless service restoration was negatively impacted by the state of the island’s commercial power grid.”).

<sup>56</sup> 5 U.S.C. § 553(d).

<sup>57</sup> *Omnipoint Corp. v. FCC*, 78 F.3d 620, 630 (D.C. Cir. 1996) (citation omitted).

<sup>58</sup> *Id.*

<sup>59</sup> 47 CFR § 1.3; 47 CFR § 54.313(c)(4). No unsubsidized provider has brought to WCB’s attention restored service consistent with the terms of the *2017 Hurricane Funding Order* so as to give us reason to reverse our prior decision. See *2017 Hurricane Funding Order*, 32 FCC Rcd at 7984-85, para. 12 & n.30.

long-term rebuilding of the territories and that such support is distributed in a cost-efficient manner.

30. Based on our analysis, we propose to spend up to an additional \$126 million through the second stages of the Uniendo a Puerto Rico Fund and the Connect USVI Fund. Specifically, we would increase funding for fixed services by \$10.5 million per year over ten years and for mobile services by \$7 million per year over three years to ensure that carriers have sufficient funds to rebuild and improve the voice and broadband-capable networks, both where the hurricanes destroyed existing infrastructure and in rural areas that have not yet been served.<sup>60</sup> As result, the Uniendo a Puerto Rico Fund would make available about \$444.5 million over a decade for fixed broadband (an \$84 million increase over current funding levels) and about \$254 million over 3 years for 4G LTE mobile broadband (a \$16.8 million increase). And the Connect USVI Fund would make available about \$186.5 million over a decade for fixed broadband (a \$21 million increase) and about \$4.4 million over a 3-year term for 4G LTE mobile broadband (a \$4.2 million increase).

31. We expect that this support will provide meaningful relief to carriers in the storm-ravaged territories in a targeted and cost-effective manner. We seek comment on whether this budget is appropriate and whether additional support beyond current levels of high-cost support is necessary to rebuild, improve, and expand service in these areas. Does our proposed allocation of additional high-cost support between fixed and mobile providers accurately reflect the costs that each will face in restoring, improving and expanding service? We also seek comment on whether and how to incorporate any unclaimed restoration funding into our long-term plan. Commenters are requested to provide specific information to substantiate their views.

32. The proposal for different terms of support for fixed and mobile providers reflects our distinct goals of providing longer-term support for fixed services and restoring a competitive environment for mobile providers. And because our proposed long-term plan treats fixed and mobile services in different ways, we seek more detailed comment below on the particulars of the plan for each type of service.

33. More generally, we seek comment on how to ensure that service is rebuilt quickly and efficiently, while improving networks where feasible and protecting critical communications networks against future natural disasters. Recognizing that access to reliable communications services is essential, particularly in times of emergency, we also explore options to expand service to areas that were unserved prior to the hurricanes. We invite comment on how to balance our competing objectives of rebuilding and improving service, ensuring network resiliency, and expanding coverage. At the same time, we are mindful of our responsibility as stewards of the USF to ensure that support is spent efficiently and seek comment on appropriate safeguards to ensure accountability. Similar to Stage 1 funding, we remind Puerto Rico and the U.S. Virgin Islands that the Act prohibits the territories from adopting regulations related to Stage 2 funding that are “inconsistent with the Commission’s rules to preserve and advance universal service.”<sup>61</sup>

### **1. Stage 2 Funding for Fixed Providers**

34. The long-term rebuilding, improvement, and hardening of fixed voice and broadband service is critical in helping Puerto Rico and the U.S. Virgin Islands recover from the devastation caused by the hurricanes. We believe that authorizing up to \$105 million in additional funds for rebuilding while distributing all high-cost funding for fixed networks through an incentive-based mechanism will best ensure that networks are rebuilt, improved, and expanded across the territories in an efficient manner.

35. We first note that present circumstances require us to revisit the Commission’s past treatment of high-cost support for fixed networks in Puerto Rico and the U.S. Virgin Islands. In the

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<sup>60</sup> We use the same ratio of fixed to mobile for this additional annual support as we used in the Order above for additional support in 2018. This split reflects the greater costs of restoring fixed services.

<sup>61</sup> 47 U.S.C. § 254(f).

*December 2014 Connect America Fund Order*, the Commission decided to allow price-cap carriers in insular areas to elect to continue receiving frozen high-cost support amounts in exchange for accepting tailored service obligations to be adopted at a later date.<sup>62</sup> Although PRTC (in Puerto Rico) and Viya (in the U.S. Virgin Islands) elected to receive frozen support, the Commission has yet to establish specific service obligations for either carrier. Moreover, the hurricanes and their aftermath wrought havoc upon these existing networks—so much so that each of these carriers has claimed that multiples of their current annual support amounts are necessary for restoration and rebuilding.<sup>63</sup> We seek comment on the view that changed circumstances require us to revisit funding for fixed networks in these territories. How does the fact that the Commission has not adopted specific CAF Phase II obligations for PRTC and Viya impact the reliance interests, if any, these carriers could reasonably have had in the status quo continuing through 2020? How should the need for extensive rebuilding factor into our decision? How should the fact that the Commission is considering the addition of \$10.5 million in high-cost funding per year for rebuilding fixed networks in these territories affect our decision? And how should the Commission weigh the efficiency of more competitive approaches that could extend improved service more widely to consumers in Puerto Rico and the U.S. Virgin Islands against any reliance interests in continuing to administer frozen support as before?<sup>64</sup>

36. Given the changed circumstances, we propose to reconsider the existing frozen high-cost support mechanisms and replace them with a competitive mechanism that would allocate an additional \$105 million to fixed networks in the territories over a decade. We propose to allocate these support amounts so that approximately 80 percent goes to the Uniendo a Puerto Rico Fund and approximately 20 percent to the Connect USVI Fund. As a result, fixed network operators in Puerto Rico would have an opportunity to compete for \$444.5 million over the next decade and fixed network operators in the U.S. Virgin Islands would have an opportunity to compete for \$186.5 million over the next decade.

37. We seek comment on this proposal. In the Order above, we used the same 80-20 ratio to balance the difference in population between Puerto Rico and the U.S. Virgin Islands, the significant financial challenges faced by carriers in both areas, the current level of high-cost support available to providers, and other relevant factors. Should we maintain that ratio for the purpose of allocating additional support? Are the total funding amounts appropriate for each territory given the rebuilding required and the improvements need to harden networks against future natural disasters and the expansion needed in rural areas? Is a ten-year term of support, which we have repeatedly used in other high-cost programs to ensure those building out had sufficient time to amortize and recover their costs, appropriate here? How should we address differences in the geographic or competitive landscape in evaluating our long-term plans? For example, Viya is currently the only fixed provider in the U.S. Virgin Islands. Does that argue for requiring inter-area competition as we do in the Connect America Fund Phase II reverse auction? Or is a quasi-competitive process on the U.S. Virgin Islands nonetheless feasible? Or should we pursue some alternative option?

38. We also invite comment on how to best promote our aim of providing support quickly and efficiently to speed the rebuilding, improvement, and expansion of service. How can we ensure that people living in the territories have access to reasonably comparable, affordable fixed voice services and broadband-capable networks? And as stewards of the USF, we seek comment on how best to fulfill our commitment to fiscal responsibility to ensure that funds are targeted efficiently.

39. As detailed below, we propose to award high-cost support using a competitive proposal process, similar to a request for proposal process. We also seek comment on conducting an auction, negotiating directly with ETCs, and establishing build-out obligations while continuing to provide frozen high-cost support at current levels.

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<sup>62</sup> *Connect America Fund*, Report and Order, 29 FCC Rcd 15664, 15661-63, paras. 45-49 (2014) (*December 2014 Connect America Fund Order*).

<sup>63</sup> See PRTC Emergency USF Petition at 8-9; Viya Emergency Wireline Petition at 1.

<sup>64</sup> *USF/ICC Transformation FNPRM*, 26 FCC Rcd at 17727, paras. 165; *id.* at 17732-33, para. 179.

**a. A Competitive Proposal Process**

40. We propose to award fixed support through the Uniendo a Puerto Rico Fund and the Connect USVI Fund by evaluating competitive proposals submitted by carriers. This approach could be completed quickly and efficiently, thereby avoiding lengthy delays in getting critical funding to carriers. A competitive proposal process is a more streamlined approach than the typical Commission auction, yet still requires carriers to compete for support. Moreover, this option may better enable the Commission to determine how best to award support for network-hardening purposes than the auction approach.

41. We propose that accepted proposals will receive support for 10 years, beginning in January 2019 and running through December 2028.<sup>65</sup> We seek comment on whether to transition support, through a phase-down process, in any geographic area where the incumbent carrier, i.e., PRTC or Viya, did not win support based on its proposal. We provide additional details and seek comment on them below.

42. *Eligible Providers.*—We propose that only a provider that, according to June 2017 FCC Form 477 data, had an existing fixed network and provided broadband service in Puerto Rico or the U.S. Virgin Islands prior to the hurricanes would be eligible to apply to participate. We seek comment on whether participation should be limited to fixed providers who served at least some residential locations or whether providers that served only business locations should also be permitted to participate. We propose to limit participation to providers who had provided services before the hurricane because we believe they would be better equipped to rebuild and expand service as quickly as possible. Relatedly, we also believe that existing providers with established track records present a smaller risk of defaulting on their service obligations. However, we seek comment on whether new entrants should also be eligible. If so, what particular qualifications if any should we impose on them?

43. We further propose to evaluate the financial and technical capabilities of the applicants through a single-stage application process. Doing so would minimize the amount of time it takes to complete the competitive proposal process and begin awarding support. We seek comment on whether to use instead the two-phase application process of the competitive bidding rules for universal service in Part 1, Subpart AA of the Commission's rules, as we have done for the CAF Phase II auction.<sup>66</sup>

44. Consistent with the Communications Act of 1934, as amended, and the Commission's rules, a provider must be designated as an ETC before receiving support.<sup>67</sup> To the extent necessary, we propose to allow providers to obtain ETC designations after winning support rather than before participating in the competitive proposal process, similar to the approach we followed for the CAF Phase II auction.<sup>68</sup> We seek comment on this approach. What methods would be appropriate for selecting another carrier if the winner fails to timely obtain an ETC designation?

45. *Eligible Areas.*—Given the unique circumstances presented by the widespread destruction of critical infrastructure, we propose to make eligible all of Puerto Rico. By making the entire territory eligible, we would eliminate the need to establish a challenge process and thus enable a more expeditious completion of the process. Doing so would also encourage applicants to expand service to areas that were previously unserved, in addition to restoring service to areas that had service before the hurricanes. Further, we anticipate that making all of Puerto Rico eligible for support will increase competition, driving down the support amounts proposed in lower-cost areas. We seek comment on this

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<sup>65</sup> Cf. *Connect America Fund et al.*, Report and Order et al., 29 FCC Rcd. 7051, 7061-62, para. 35 (2014) (*April 2014 Connect America Fund Order*).

<sup>66</sup> *Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949, 5980-86, paras. 91-101 (2016) (*CAF Phase II Auction Order*) (detailing process for determining eligibility to bid in the CAF Phase II Auction).

<sup>67</sup> 47 U.S.C. § 254(e); 47 CFR § 54.201(a)(1).

<sup>68</sup> *April 2014 Connect America Fund Order*, 29 FCC Rcd at 7064-65, para. 43.

approach. Similarly, we propose to make eligible all of the U.S. Virgin Islands and seek comment on that approach.

46. Alternatively, we seek comment on whether certain areas should be excluded. For example, are there areas where service has already been rebuilt (or will be rebuilt by the end of 2018)? Are there areas where providing high-cost support to one carrier would distort the competitive market and reduce potential competitors' incentives to rebuild service? How can we ensure consistency with the Commission's policy against providing funding in areas where there is an unsubsidized competitor? Would the ability of other carriers to bid for such support reduce the funding in such areas to only what's needed to rebuild otherwise unserved areas? Are there areas where support levels would be so low as to be unnecessary to rebuild and improve service, such as census blocks in Puerto Rico identified by the model as having particularly low average monthly costs? How can we best achieve our goal of maximizing the expansion of service to unserved areas in addition to restoring and improving service to areas that had it before the hurricanes?

47. *Minimum Geographic Area.*—We propose to accept proposals for support to satisfy specific service obligations within each of Puerto Rico's 78 municipios. Using municipios as the basic geographic area for support may allow providers to achieve economies of scale that would not be available if we used smaller areas, such as Puerto Rico's over 900 barrios. On the other hand, there may be some risk that municipios are too large to target funding in a competitively neutral manner—incumbent providers with large existing service territories are likely more amenable to providing service over a wider area. We seek comment on whether using municipios makes sense or whether we should instead provide support on a more granular basis, such as by barrios, census block groups, or some other geographic unit.

48. We seek comment on the appropriate minimum geographic area for support in the U.S. Virgin Islands. Should we treat the entire territory as one geographic area to carry out this initiative? Or should we treat each island in the U.S. Virgin Islands separately for this purpose? Or would using some other census-defined geography such as census tract, census block group, or census block be more appropriate?

49. *Number of Locations in Each Geographic Area.*—We propose to identify the number of locations in each geographic area by using the Connect America Cost Model (the CAM).<sup>69</sup> We seek comment on how we can best account for the fact that people may have migrated from Puerto Rico and the U.S. Virgin Islands since the storms. We seek comment on what other sources of data would more accurately model the number of locations in each area. We also seek comment on whether to provide support based on only certain locations within each geographic area, such as those that are more costly to serve, and whether to exclude certain other locations from bidding, such as those that are less costly and therefore may not require high-cost support. We propose, as a condition of receiving support for funded locations, that a winning bidder serve *all* locations within a geographic area, not just those funded (if we decide to fund just a subset of locations). This proposal comports with our decision to focus on rebuilding all networks and make all of Puerto Rico eligible for bidding, rather than only discrete areas. Alternatively, we seek comment on limiting the obligation only to funded locations or locations in census blocks identified by the model as being above a certain funding benchmark?

50. Given possible changes in the number of locations post-hurricane and the difficulties in obtaining more recent, accurate data, we also seek comment on whether to instead evaluate proposals to serve all the locations in a municipio without determining exactly how many locations that represents. In other words, applicants would commit to serve all locations in a municipio rather than to serve a specific number. We also seek comment on whether differences in municipio characteristics, such as quantity of

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<sup>69</sup> The location totals include housing units and small businesses (i.e., businesses to which mass market services have been made available). The CAM Methodology describes how the CAM identified locations in each census block. CostQuest Associates, Inc., Connect America Cost Model: Model Methodology 12-15 (Dec. 22, 2014), [https://transition.fcc.gov/web/CAM\\_v.4.2\\_Methodology.pdf](https://transition.fcc.gov/web/CAM_v.4.2_Methodology.pdf) (CAM Methodology).

high cost locations or remoteness, should lead us to attach different obligations to funding so as to better ensure all parts of the territories are provided with service.

51. Furthermore, if the data we eventually adopt overestimate the number of locations in an area, we seek comment on what flexibility to offer winning applicants. Should we, for example, reduce support on a pro rata basis if we lower the number of locations a provider must serve, and if so, what requirements and limitations should we establish for such reductions?<sup>70</sup> Should we consider giving providers more flexibility here than we have in other contexts given the facilities lost and the recent emigration from the territories?

52. *Reserve Prices.*—We propose to use a three-step process to set reserve prices. First, we would employ the cost model used to establish support for price cap carriers (the CAM) to calculate the average cost per location of all locations in a census block.<sup>71</sup> Second, we would set separate high-cost and extremely high-cost thresholds for Puerto Rico and the U.S. Virgin Islands to ensure the full amount of funding available to each territory over the ten-year period is available for obligation. Third, we would establish a reserve price for each minimum geographic area based on the sum of the support amounts calculated for each eligible census block in that municipio. Under the proposal, WCB would release the reserve price and number of locations for all eligible areas by public notice no later than 30 calendar days before the application deadline to submit competitive proposals.

53. We seek comment on this proposal, and particularly on the key second step. We note that the extremely high-cost threshold here would be used to establish a per-location funding cap, similar to how the Commission offered rate-of-return carriers model-based support.<sup>72</sup> How should the Commission establish the appropriate thresholds? The CAM established a high-cost threshold of \$52.50 based on assumed take rates and potential average revenues per subscriber.<sup>73</sup> Do those assumptions still hold in the context of Puerto Rico and the U.S. Virgin Islands after the hurricanes? If not, should we lower the high-cost threshold and if so, by how much? By 25 percent? By more? The CAM established a high-cost threshold of \$198.60. Is that appropriate here? The Puerto Rico Telecommunications Regulatory Board has stated that more support needs to be directed to the rural parts of the island.<sup>74</sup> Would that suggest setting a higher extremely high-cost threshold? We also seek comment on how to allocate funds between bringing service to locations that had never been served versus restoring service (potentially at a lower cost) to locations where service had been disrupted by the hurricanes. For example, we have previously

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<sup>70</sup> In other high-cost support mechanisms, the Commission has granted some degree of flexibility for such circumstances. See, e.g., *Connect America Fund et al.*, WC Docket No. 10-90 et al., Order on Reconsideration, FCC 18-5, at 10, paras. 23-34 (rel. Jan. 31, 2018) (permitting corrections to the model-calculated number of locations after the CAF Phase II Auction and directing WCB to establish procedures for such corrections); *Connect America Fund et al.*, Report and Order, 29 FCC Rcd 15644, 15659-61, paras. 38-44 (2014) (permitting a “modest adjustment to the number of model-determined funded locations in a given state with a corresponding reduction in support” so long as a price cap carrier accepting model-based support deploys to at least 95 percent of funded locations); *Connect America Fund et al.*, Report and Order et al., 31 FCC Rcd 3087, 3101, para. 33 (2016) (*2016 Rate-of-Return Order*) (similar provision for rate-of-return carriers); *Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949, 5965-67, paras. 42-48 (2016) (similar provision for winners of CAF Phase II Auction support).

<sup>71</sup> In the Phase II auction, the Commission decided to average costs at the census block level, which differs from the approach taken in the offer of model-based support for price cap carriers where the CAM calculated the costs associated with each carrier, wire center, or splitter separately, on a sub-census block basis. See *CAF Phase II Auction Order*, 31 FCC Rcd at 5971-72, paras. 64-65.

<sup>72</sup> See *Connect America Fund et al.*, WC Docket No. et al., Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, 31 FCC Rcd 3087, 3107, para. 52 (2016).

<sup>73</sup> *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order, 29 FCC Rcd 3964, 4035-40, paras. 171-80 (WCB 2014) (*CAM Inputs Order*).

<sup>74</sup> PRTRB *Ex Parte* at 1-2.

assigned zero support to locations below the high-cost threshold on the assumption that a business case nonetheless existed to serve such locations. Does the context of rebuilding networks on these islands suggest revisiting that assumption and assigning some funding—say 10 percent of cost—to cover the costs below the high-cost threshold? We also seek comment on how the CAM should be adjusted, if at all, to take into account the need for network hardening. For example, should we assume the cost of above-ground plant will increase 10 percent (or more) to account for such hardening before we determine the costs per location?

54. *Selection Process.*—We seek comment on the appropriate time frame and format for submitting proposals. We propose to allow confidential proposals. Should we unseal proposals after finishing the evaluations process for transparency reasons? We seek comment on whether to make public the submitted proposals after the evaluation process has been completed and winning applicants have been determined. We seek comment on prohibiting multiple carriers from submitting a proposal jointly.

55. We propose to select winning proposals based primarily on price per-location served while adjusting the bids to consider factors including network resiliency, network deployment timing, and network performance. We seek comment on these factors and what other factors we should consider when evaluating proposals.<sup>75</sup> Considering price as the primary factor responsibly manages the Fund, but the Commission recognizes the increased costs of deploying a storm-hardened network in Puerto Rico and the USVI. For instance, how should we factor storm hardening proposals into our evaluation? Should we require or increase the weight of bids that comply with resiliency standards like TIA-222-H, the most up-to-date standard for antenna supporting structures,<sup>76</sup> with best practices promulgated by the FCC’s Communications Security, Reliability and Interoperability Council,<sup>77</sup> or with another industry used standard for network resiliency? Should we establish weights to account for the speed of deployment? What weight would be appropriate to balance costs against encouraging prompt deployment to the territories? Should we establish weights to account for proposals offering “higher speeds over lower speeds, higher usage allowances over lower usage allowances, and lower latency over higher latency”?<sup>78</sup> If so, what weighting scheme would be appropriate for that purpose? Instead of using specific weights could we define preferences for various characteristics in the proposals? If we do not require proposals to identify a specific number of locations to serve, what factors should we consider in comparing proposals?

56. How should we address package bidding? For example, should we allow package bidding? If so, what limits if any should we put on packages (e.g., should we require all packages to be contiguous or limit the number of minimum geographic areas included in the package)? If selecting two package bids would be the most efficient outcome even if they overlapped in a particular geographic area, should we accept both (perhaps requiring the less efficient bidder to redirect support from the overlapped area to other unserved areas) or reject the less efficient package (perhaps leaving no bidder for some areas)?

57. How should we evaluate bids? Should we direct USAC or WCB to evaluate bids? We propose directing the reviewer to evaluate the bids in accordance with the selection criteria, methodology and bidding process outlined above. Once that initial evaluation is complete, should we make selections or offer feedback to applicants and allow them to return with best-and-final offers? Or would that introduce undue discretion into the process or create additional administrative burdens or delays? If a

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<sup>75</sup> See, for example, the Commission’s rule for schools and libraries in the E-rate program, 47 CFR § 54.511(a) (“In determining which service offering is the most cost-effective, entities may consider relevant factors other than the pre-discount prices submitted by providers, but price should be the primary factor considered”).

<sup>76</sup> A description is available at <https://www.tiaonline.org/news-media/press-releases/tia-announces-publication-tia-222-h-standard-antennas-and-supporting>.

<sup>77</sup> See FCC, CSRIC Best Practices, <https://opendata.fcc.gov/Public-Safety/CSRIC-Best-Practices/qb45-rw2t/data>.

<sup>78</sup> *CAF Phase II Auction Order*, 31 FCC Rcd at 5957, para. 16.



dissatisfied applicant wants to challenge its non-selection, would existing appeals processes be sufficient?

58. How should we address areas without bids? One approach would be to invite a second round of competitive proposals, with the difference between bids and reserve prices in the first round being transferred to raise the reserve price of remaining areas (pro rata) in the second round. In other words, if the reserve price for areas won in the first round were \$10 million and only \$8 million was bid, then \$2 million would be available to raise the reserve prices in areas remaining in the second round. We seek comment on this approach, including whether it would be vulnerable to potential gamesmanship by bidders.

59. In addition, as a backstop, we propose to require the incumbent carrier to continue to provide service to any unawarded areas using frozen high-cost support—with corresponding service obligations to be determined by the Commission after the competitive proposal process is complete. We note that for this and other purposes (such as any transitional payments) we would allocate an incumbent carrier's existing frozen support across their service territory in proportion to the reserve prices we initially set for the competitive proposal process. We believe this backstop would place incumbent carriers in no worse a position than they are in today, with frozen support and accompanying service obligations to be determined by the Commission.

60. *Service Obligations.*—In addition to voice service, we propose to require support recipients to offer broadband service meeting the following metrics: download/upload speeds of at least 10/1 megabits per second (Mbps), roundtrip latency of no greater than 100 milliseconds (ms), and a minimum usage allowance of the higher of 170 GB per month or one that reflects the average usage of a majority of consumers, using Measuring Broadband America data or a similar data source.<sup>79</sup>

61. We seek comment on whether these obligations are appropriate. Should we, for instance, require some portion of the areas served to receive 25/3 Mbps service? And, if so, what fraction would be appropriate? Should we impose different requirements for areas based on the amount of support allocated?

62. Further, we propose requiring each support recipient to offer broadband service in its supported area at rates that are reasonably comparable to rates offered for comparable services in urban areas.<sup>80</sup> Rates will be considered reasonably comparable if they are “at or below the applicable benchmark to be announced annually by public notice issued by the Wireline Competition Bureau.”<sup>81</sup> Based on the results of the Urban Rate Survey, we see no reason to adopt a different benchmark specific to Puerto Rico or the U.S. Virgin Islands. We seek comment on this approach.

63. *Deployment Milestones.*—As with the CAF Phase II Auction, we propose that winning bidders must deploy to at least 40 percent of locations after the third year of support, at least 60 percent after the fourth, at least 80 percent after the fifth, and 100 percent after the sixth year of support.<sup>82</sup> We seek comment on whether this schedule is appropriate. We also seek comment on how we should track milestones if a particular number of locations, as already discussed, is not defined. Are there other ways to track progress without having to rely on location counts given the possible difficulty of establishing a number of locations?

64. *Oversight and Accountability Measures.*—The Commission has an obligation to ensure

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<sup>79</sup> See *Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949, 5957, para. 15 (2016); *Wireline Competition Bureau Announces Results of 2018 Urban Rate Survey for Fixed Voice and Broadband Services, Posting of Survey Data and Explanatory Notes, and Required Minimum Usage Allowance for ETCs Subject to Broadband Public Interest Obligations for All United States Carriers, Including Carriers in Alaska*, Public Notice, 32 FCC Rcd 9339, 9341 (2017).

<sup>80</sup> See 47 U.S.C. § 254(b)(3); *USF/ICC Transformation Order*, 26 FCC Rcd at 17695, para. 86.

<sup>81</sup> See 47 CFR § 54.309(a).

<sup>82</sup> *CAF Phase II Auction Order*, 31 FCC Rcd at 5964, para. 40.

that carriers receive support “only for the provision, maintenance, and upgrading of facilities and service for which the support is intended” as required by section 254(e) of the Act.<sup>83</sup> The Commission has exercised its oversight obligations in a variety of way since inception of the fund.<sup>84</sup> Below we propose various oversight and accountability measures that, taken together, serve the public interest by enhancing our ability to monitor the use of USF and ensure its use for intended purposes.<sup>85</sup>

65. *First*, we propose that support recipients must satisfy all reporting and certification obligations of providers receiving CAF Phase II auction support, including as described in sections 54.313 and 54.316 of the Commission’s rules.<sup>86</sup> We seek comment on this proposal. We seek comment on whether providers who win support must track their restoration expenditures.<sup>87</sup> Should providers retain documentation on how much support was used for capital expenditures and operating expenditures? What are the associated burdens with retaining expenditure documentation? Would retention of this documentation be duplicative of records needed for deployment milestones?

66. *Second*, we propose aligning the annual reporting obligations with the obligations of other rate-of-return carriers in the *2016 Rate-of-Return Order* by requiring geocoded location reporting into the HUBB.<sup>88</sup> This reporting obligation would require providers to submit information demonstrating locations the provider is reporting as broadband-enabled where the company is prepared to offer voice and broadband service meeting the requisite performance standards. Do carriers currently retain geolocation data for served locations? If not, what period of time is needed to enable collection of geolocation data? Should we require this data be reported for only newly deployed locations or all reported locations? Would annual reporting or a longer period more appropriately balance the reporting burden against the accuracy of the data? Additionally, we propose requiring awarded carriers to submit performance measurements in accordance with the requirements to be defined by the Commission.<sup>89</sup> To the extent that awarded carriers have not participated in that proceeding, we propose requiring the same testing method options and parameters as price cap carriers.<sup>90</sup>

67. *Third*, we propose to carefully monitor and reassess the deployment obligations of the awarded support before the end of the fifth year. Understanding the deployment and operational realities of providing service in both Puerto Rico and the U.S. Virgin Islands, we believe this reassessment would

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<sup>83</sup> 47 U.S.C. § 254(e); 47 C.F.R. § 54.7 (a) (“A carrier that receives federal universal service support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.”).

<sup>84</sup> *USF/ICC Transformation Order*, 26 FCC Rcd at 17848-67, paras. 568-635 (reforming the framework for oversight of ETCs by the Commission).

<sup>85</sup> *See, e.g., CAF Phase II Auction Order*, 31 FCC Rcd at 6010, para. 172. Designing and adopting oversight and accountability measures when proposing a new or modified USF program not only ensures that the FCC meets its obligations under the Communications Act but also facilitates our compliance with government-wide obligations for the efficient and effective design and implementation of federal programs. *See, e.g., Government Performance and Results Act of 1993*, Pub. L. No. 103-62, 107 Stat. 285 (1993) (requiring federal agencies to develop strategic plans with long-term, outcome-related goals and objectives, develop annual goals linked to the long-term goals, and measure progress toward the achievement of those goals in annual performance plans and to report annually on their progress in program performance reports); *GPRA Modernization Act of 2010*, Pub. L. 111-352, 124 Stat. 3866 (2011). *See also infra* note \_\_ (discussing audit program and IPERIA).

<sup>86</sup> 47 CFR §§ 54.313(a), (e)(2), 54.316(a).

<sup>87</sup> *See, e.g., Open Mobile Petition* at 7-8 (describing accountability measure including filing “periodic reports providing the Commission with a detailed accounting of all expenditures by category”).

<sup>88</sup> *2016 Rate-of-Return Order*, 31 FCC Rcd at 3167, para. 217.

<sup>89</sup> *See Comment Sought on Performance Measures for CAF Recipients*, 32 FCC Rcd. 9321 (WCB 2017) (seeking comment regarding the performance measures for high-cost universal service support recipients).

<sup>90</sup> *Id.* at 9324, para. 7.

be prudent to address any changed circumstances within the territories, whether that be changes in subscribership expectations due to population changes or future disruptive natural disasters. As the current situation demonstrates, the long-term planning involved in any telecommunications deployment decision requires a number of assumptions that may change dramatically over time. Would providing an opportunity for the Commission to reassess deployment obligations be beneficial to providers or cause unneeded uncertainty? Should the reassessment be tied to deployment milestones? For example, the reassessment would not be triggered if a provider is 60 percent deployed after four years, but would occur if a provider failed to meet the deployment obligation. Would it be appropriate to alter the obligations by increasing or decreasing the number of locations or modifying the service obligations?

68. *Fourth*, we propose to subject awarded carriers to the same compliance standards as any other carrier with defined obligations by defining specific obligations for the support.<sup>91</sup> This may result in a carrier that failed to meet its milestones having support reduced until the carrier can meet its obligations or face recovery actions.<sup>92</sup> We seek comment on this approach.

69. We also seek comment on whether successful applicants must obtain a letter of credit by way of security, as must winning bidders in the CAF Phase II auction.<sup>93</sup> If so, how should the letter of credit be structured? Should it be for the full amount awarded, or some lesser amount that will nevertheless protect the USF? Should an alternative to a letter of credit be considered, such as a performance or payment bond?

70. *Fifth*, we propose to subject all awarded carriers in the territories to ongoing oversight by the Commission and USAC to ensure program integrity and prevent waste, fraud, and abuse. The Commission has a longstanding audit program that is continually updated to respond to the Commission's needs inclusive of changes in program requirements, new guidance from GAO and OMB, and changes in law.<sup>94</sup> Accordingly, we propose that all awarded carriers would be subject to random compliance audits and other investigations to ensure compliance with program rules and orders.<sup>95</sup> We seek comment on what sorts of audit procedures the Commission should undertake to confirm that support has been spent on allowed restoration costs. We also seek comment on whether there are specific circumstances facing carriers in the territories that require modifying the current audit practices.<sup>96</sup>

#### **b. The Auction Alternative**

71. As an alternative to the competitive proposal process, we seek comment on using an auction for the second stages of the Uniendo a Puerto Rico Fund and the Connect USVI Fund. We note

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<sup>91</sup> 47 CFR § 54.320(d); *December 2014 Connect America Order*, 29 FCC Rcd at 15694-700, paras. 142-54.

<sup>92</sup> 47 CFR § 54.320(d)(2); *December 2014 Connect America Order*, 29 FCC Rcd at 15697, para. 148.

<sup>93</sup> See 47 CFR § 54.315(c).

<sup>94</sup> In 2011, the Commission provided a summary of its audit program and how it had changed over time to address concerns expressed by GAO and also to respond to changes in law. *USF/ICC Transformation Order*, 26 FCC Rcd at 17864-66, paras. 622-29. Aspects of the audit program facilitate the Commission's compliance with the Improper Payments Elimination and Recovery Act of 2010 (IPERA), codified as amended at 31 U.S.C. § 3301 note. The FCC follows OMB guidance on the implementation of IPERA. OMB Circular A-123, Management's Responsibility for Enterprise Risk Management and Internal Control (Appendix C), Requirements for Effective Estimation and Remediation of Improper Payments. We note that the Fraud Reduction and Data Analytics Act of 2015, Pub. L. No. 114-186, further amends IPERA and requires agencies, with guidance from OMB, to "design and implement control activities in order to prevent, detect, and respond to fraud, including improper payments" and also requires that such controls employ data analytics to improve the prevention, detection and response to fraud.

<sup>95</sup> See, e.g., 47 CFR § 54.320 (a).

<sup>96</sup> The FCC's Annual Financial Report (AFR) for Fiscal Year 2017 provides a summary of the audit plan for each USF program. FY 2017 AFR at 1, 9, 74-85, available at <https://www.fcc.gov/document/fy-2017-agency-financial-report>.

that we cannot simply apply the same rules of the CAF Phase II Auction here because we seek to achieve different goals. Among other differences, here we wish to rebuild networks, including in areas where a business case existed pre-hurricane for providing service, whereas in the CAF Phase II context, the Commission aims to maintain and expand service where there is no such business case.

72. Instead, we seek comment on using a single-round sealed bid auction to award support.<sup>97</sup> Such an approach generally would award support on a per-location basis, based on the lowest price. Bidders would identify a per-location support price at which they are willing to meet Commission requirements to cover the locations in each eligible area they specify. Bids would then be ranked, lowest to highest, and support would be assigned to those areas with the lowest bid amounts submitted (and within each assigned area, to the lowest bidder), until no further bids can be accommodated under the budget. The terms of such an auction would otherwise largely track the terms for the competitive proposal process described above.

73. We seek comment on whether the competitive environment in Puerto Rico is sufficiently robust to ensure an auction that distributes funds in a cost-effective way. We seek comment on whether to use an auction process to distribute funds in Puerto Rico, but not in the U.S. Virgin Islands, given that FCC Form 477 data shows that Viya is currently the only fixed provider there.

74. Are there any specific auction rules or procedures we should consider so that an auction would not be overly complicated for the Commission to administer and would not overly burden potential bidders? Is there an auction design we could use that would achieve our objective of maximizing consumer benefits? Would this approach afford the same flexibility as a competitive proposal process?

#### **c. The Negotiated Alternative**

75. We seek comment on whether to structure the second stages based on carrier-submitted proposals to rebuild, improve, and expand service in the territories. Such proposals would not be evaluated on a competitive basis, but would be the result of negotiation between the Commission and carriers. Given similarly unique circumstances, we adopted a framework based on carrier commitments to maintain and expand the availability of service in Alaska.<sup>98</sup>

76. Like the competitive proposal option, through this process we seek to maximize the number of locations where fixed voice and broadband services would be available in a targeted and cost-effective manner. As with any method of awarding of support, we expect to hold providers accountable to use support for its intended purposes and to meet the deployment commitments we set.

77. To the extent we adopt this approach, we seek comment on the process by which we would seek proposals, review them, and award support. We anticipate establishing the specific criteria by which we would award support and measure compliance by Public Notice, along with a time frame for submitting proposals. We invite comment on this approach.

#### **d. The Frozen-Support Alternative**

78. In the *Universal Service Transformation Order*, the Commission allowed price cap carriers serving specific non-contiguous areas of the United States—including Puerto Rico and the U.S.

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<sup>97</sup> See 47 CFR §§ 1.2101 (competitive bidding procedures), 1.21000 (competitive bidding for universal service support).

<sup>98</sup> See *Connect America Fund; Universal Service Reform – Mobility Fund; Connect America Fund – Alaska Plan*, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 10139, 10141-42, para. 5 (2016) (*Alaska Plan Order*) (noting Alaska’s “unique circumstances including Alaska’s large size, varied terrain, harsh climate, isolated populations”). In the consensus plan, the Commission gave rate-of-return incumbent carriers within their own service areas in Alaska “the option to obtain a fixed level of funding for a defined term in exchange for committing to deployment obligations that are tailored to each Alaska rate-of-return carrier’s circumstances.” *Id.*; see also *Connect America Fund*, Order, 31 FCC Rcd 2086 (2016).

Virgin Islands—to maintain frozen support levels for those carriers if, in the Bureau’s determination, certain conditions were met.<sup>99</sup> Recognizing that these carriers faced different operating conditions and challenges compared to carriers in the contiguous 48 states,<sup>100</sup> the Bureau invoked its discretion. Both PRTC and Viya elected to continue receiving frozen support,<sup>101</sup> with the Commission responsible for adopting specific service obligations tailored to the individual circumstances of each carrier.<sup>102</sup>

79. As the Commission has not yet adopted CAF II obligations for the frozen support that PRTC and Viya continue to receive, we seek comment on whether to forego reconsidering our prior decisions and instead simply adopt specific service obligations to reflect the frozen-support amounts PRTC and Viya currently receive. If we pursue this alternative, what obligations would be appropriate and feasible? Should the Commission establish particular expectations regarding expanding service to new areas or implementing more resilient networks?

## 2. Stage 2 Funding for Mobile Providers

80. In the aftermath of the hurricanes, the rapid restoration of mobile service was critical in facilitating communications with public safety and civic officials and connecting families to loved ones.<sup>103</sup> Building upon the significant restoration efforts that have taken place to date, we seek comment on how best to target high-cost support to rebuild, improve, harden, and expand mobile services in Puerto Rico and the U.S. Virgin Islands. We propose to make \$259 million in support available to eligible facilities-based mobile providers over the next three years through the Uniendo a Puerto Rico Fund and the Connect USVI Fund. Our goal is to facilitate timely recovery of mobile services within these territories in a cost-effective manner.

81. We first note that the Commission had previously targeted Puerto Rico and the U.S. Virgin Islands as potential areas eligible for the upcoming MF-II auction. However, the Commission recognized in December that conditions in the territories after the hurricanes made establishing reliable coverage of mobile networks infeasible in the near term. As such, the Commission waived the filing deadline for mobile providers to submit 4G LTE coverage information for a period of 180 days or until the Commission took action addressing the appropriate approach, given the circumstances, for providing ongoing, high-cost support for mobile services in Puerto Rico and the U.S. Virgin Islands, whichever occurred earlier.<sup>104</sup>

82. We now propose to extend that waiver, exempt these mobile providers from filing this coverage information, and carve Puerto Rico and the U.S. Virgin Islands out from the MF-II auction.<sup>105</sup> Instead, we propose to supplement existing support over a three-year period by giving providers an additional \$21 million to rebuild their networks after the destruction wrought by Hurricanes Irma and

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<sup>99</sup> *Id.*

<sup>100</sup> *USF/ICC Transformation Order*, 26 FCC Rcd at 17737-38, para. 193.

<sup>101</sup> Letter from Russell M. Blau, Counsel to Virgin Islands Telephone Corporation d/b/a Innovative Communications, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90 (filed Dec. 29, 2014); Letter from Thomas J. Navin, Counsel to Puerto Rico Telephone Company, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90 (filed Dec. 22, 2014).

<sup>102</sup> *Connect America Fund et al.*, Report and Order, 29 FCC Rcd 15644, 15662, para. 46 (2014).

<sup>103</sup> Rachel Becker, *Trying to communicate after the hurricane: ‘It’s as if Puerto Rico doesn’t exist’* (Sept. 29, 2017), <https://www.theverge.com/2017/9/29/16372048/puerto-rico-hurricane-maria-2017-electricity-water-food-communications-phone-internet-recovery>.

<sup>104</sup> *Connect America Fund et al.*, Order, 32 FCC Rcd 10167 (WTB/WCB 2017).

<sup>105</sup> The Commission has similarly removed Mobility Fund Phase II support for mobile service within Alaska, due to the unique circumstances of that state. *Alaska Plan Order*, 31 FCC Rcd at 10163, para. 98; *see also id.* at 10211, O’Reilly Statement (observing that Alaska’s circumstances make it an outlier that is not well situated for Mobility Fund Phase II).

Maria and their aftermath. We seek comment on allocating these support amounts so that approximately 80 percent goes to the Uniendo a Puerto Rico Fund and approximately 20 percent to the Connect USVI Fund. As a result, over the next three years, the Uniendo a Puerto Rico Fund would make available \$254.4 million to mobile network operators and the Connect USVI Fund would make available \$4.4 million to mobile network operators. These territories currently face serious and continuing challenges in restoring their mobile communications capacity, and we tentatively conclude that this additional funding will allow providers in these territories to repair the damage caused by the hurricanes to their wireless networks as well as make their networks more resilient to future natural disasters.

83. We seek comment on this proposal. In the Order above, we used the same 80-20 ratio to balance the difference in population between Puerto Rico and the U.S. Virgin Islands, the significant financial challenges faced by carriers in both areas, the current level of high-cost support available to providers, and other relevant factors. Should we maintain that ratio for the purpose of allocating additional support? Are the total funding amounts appropriate for each territory given the rebuilding required and the improvements need to harden networks against future natural disasters and the expansion needed in rural areas? Is a three-year term of support appropriate here? How should we address differences in historic universal service funding in evaluating our long-term plans? For example, mobile carriers in the U.S. Virgin Islands receive almost no funding today. Does that argue for allocating most of the new funding there? Or should we redistribute all funding across both territories setting aside historic allocations?

84. We propose that only providers that provided facilities-based mobile services in Puerto Rico and the U.S. Virgin Islands prior to the hurricane impacts, according to the June 2017 Form 477 data, would be eligible to elect this new funding. We propose to allocate the new funding based on the number of subscribers (voice or broadband Internet access service) each provider served as of June 30, 2017—similar to how we calculate support in stage one. As an alternative, we seek comment on allocating all funding available for mobile network operators in the second stages of the Uniendo a Puerto Rico Fund and the Connect USVI Fund based on pre-hurricane subscribership. Such an approach would avoid any inefficiencies in the historic allocation of support among the islands and avoid the need for a decision ahead of time regarding how much in particular should go to Puerto Rico versus the U.S. Virgin Islands. If we pursue this alternative approach, should we set transitional funding amounts for existing recipients of high-cost support? In particular, should we ensure that existing recipients receive at least two-thirds of their current mobile support in 2019 and at least one third in 2020?

85. We propose that, in exchange for accepting additional support, each mobile provider must commit to, at minimum, a full restoration of its pre-hurricane coverage area, at a level of service that meets or exceeds the minimum standard required of recipients of MF-II support.<sup>106</sup> Such a requirement aligns with the goal of MF-II to “target universal service funding to support the deployment of the highest level of mobile service available today—4G LTE.”<sup>107</sup> We tentatively conclude that, given the extent of damage in Puerto Rico and the U.S. Virgin Islands, most providers will already be engaging in substantial rebuilding of towers and infrastructure, and will find it most economical to deploy 4G LTE during such restoration versus alternative technologies. We seek comment on whether this requirement is appropriate. Should we instead require providers to rebuild their networks at a different standard? For example,

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<sup>106</sup> *Connect America Fund; Universal Service Reform – Mobility Fund II*, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 2152, 2189-90, para. 87 (2017) (*Mobility Fund II Report & Order*). Those requirements include offering voice service and providing 4G Long Term Evolution (LTE) service that meets minimum baseline performance requirements for data speeds, data latency, and data allowances for at least one offered plan. The median data speed of the network for the supported area must be 10 Mbps download speed or greater and 1 Mbps upload speed or greater, with at least 90 percent of the required download speed measurements being not less than a certain threshold speed. For latency, at least 90 percent of the required measurements must have a data latency of 100 milliseconds or less round trip. Support recipients must offer at least one service plan that includes a data allowance comparable to mid-level service plans offered by nationwide providers.

<sup>107</sup> *Id.* at 2156, para. 13.

should we instead require deployment at the speed benchmark used to identify areas eligible for MF-II?<sup>108</sup> Is there an alternative standard appropriate to ensure that residents of Puerto Rico and the U.S. Virgin Islands have comparable service to other areas of the United States? Should we restrict funding to support operation, deployment, and enhancement only of 4G LTE?

86. We also seek comment on whether the Uniendo a Puerto Rico Fund and the Connect USVI Fund should include requirements to expand service. Are there areas, for instance, that lacked coverage before the hurricanes and that we should nonetheless require providers to serve? How should such areas be identified and how should we determine what carriers should be required to serve them? We seek comment on how quickly rebuilding could be accomplished and what milestones might be appropriate to complete build out. Is three years of funding for rebuilding appropriate? Why or why not?

87. We also seek comment on the appropriate reporting requirements for support recipients. We propose to have any mobile providers receiving second-stage support via the Uniendo a Puerto Rico Fund and the Connect USVI Fund report twice per year on their coverage. Specifically, we propose that providers supply coverage maps using the buildout parameters the Commission will adopt for the MF-II auction.<sup>109</sup> If we adopt a different service requirement for funding recipients than the minimum standard required of recipients of MF-II support, we propose to make appropriate adjustments to the reporting requirements. We seek comment on these proposals. We also seek comment on how this data should best be submitted to the Commission, such as through the regular Form 477 filings or some other process?

88. As noted above, the Commission has an obligation to ensure that carriers receive support “only for the provision, maintenance, and upgrading of facilities and service for which the support is intended” as required by section 254(e) of the Act.<sup>110</sup> We seek comment on appropriate oversight and accountability measures for carriers that receive additional high-cost support as proposed in this Notice. We propose that recipients of such funds conform to the annual reporting requirements the Commission adopted for MF-II.<sup>111</sup> We also propose that all support recipients be subject generally to the same audit requirements as recipients of CAF-II support and all other high-cost support.<sup>112</sup> We seek comment on whether any other oversight or accountability measures are appropriate. Should we require carriers to submit one or more Milestone Reports to demonstrate progress on service restoration? Would it be beneficial for the Commission or USAC to make use of independent testing to determine service speed, quality, and reliability in these areas?

89. We propose to use an auction to allocate funding following this three-year period, with any funding commitments resulting from such an auction to commence on the day following the end of the three-year period. We seek comment on whether the competitive environment in Puerto Rico and the U.S. Virgin Islands is sufficiently robust to ensure an auction that distributes funds in a cost-effective way and whether it makes sense from the perspective of administrative efficiency to hold such an auction. Can we use the same general auction rules and same auction design for this auction as we will use for the MF-II auction?<sup>113</sup> Are there any specific auction rules or procedures we should consider so that an auction would not be overly complicated for the Commission to administer and would not overly burden potential

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<sup>108</sup> *Id.* at 2173, para. 51. For the purposes of MF-II, the Commission defined “qualified 4G LTE service” as mobile wireless service provided using 4G LTE technology with download speeds of at least 5 Mbps.

<sup>109</sup> *See Mobility Fund II Report & Order*, 32 FCC Rcd 2152, 2189-90, para. 87.

<sup>110</sup> 47 U.S.C. § 254(e); 47 C.F.R. § 54.7 (a) (“A carrier that receives federal universal service support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.”).

<sup>111</sup> *Mobility Fund II Report & Order* at 2226, para. 196.

<sup>112</sup> 47 C.F.R. § 54.209.

<sup>113</sup> *See Connect America Fund; Universal Service Reform – Mobility Fund*, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 2152 (2017) 47 C.F.R. §§ 1.21000 *et seq.*



bidders?

90. If we were to use an auction to allocate funding, how should we determine which areas would be eligible to win support in the auction? Should we consider an area eligible if it does not meet the speed and technical parameters used to identify areas eligible for MF-II?<sup>114</sup> Should the Commission adopt additional or alternative specifications for eligibility that would be more suitable for Puerto Rico and the U.S. Virgin Islands? For example, should an area be eligible if, despite meeting a certain download speed requirement, it does not meet certain network resiliency requirements, e.g. hardening to hurricane impacts? If so, what resiliency requirements would be appropriate? Above, we propose that providers supply coverage maps using the technical parameters buildout parameters the Commission will adopt for the MF-II auction. Would that coverage information suffice for determining areas eligible for an auction, or is additional data required, such as a one-time data collection using the MF-II Challenge process technical parameters? If so, when should the Commission collect that data to ensure that funding commitments can begin on schedule?

### 3. Disaster Response Measures

91. Several parties have proposed that rebuilt networks be “storm hardened.”<sup>115</sup> We seek comment on whether the Uniendo a Puerto Rico Fund and the Connect USVI Fund should require second-stage participants to improve the ability of their facilities and equipment to resist hurricanes and other natural disasters. If so, should we require compliance with resiliency standards like TIA-222-H, the most up-to-date standard for antenna supporting structures<sup>116</sup> or with best practices promulgated by the FCC’s Communications Security, Reliability and Interoperability Council?<sup>117</sup> Are there other industry standards that would help improve resistance to flooding, wind damage, and water damage? How should any such requirements be enforced? What are the expected costs of deploying a “storm hardened” network, and how should the Commission evaluate the costs and benefits of any such network? Should the Commission consider requiring hardening of certain key network assets, but not the entire network? If so, how should key assets be identified? Would requiring hardening only of assets sufficient to provide voice and basic data service be appropriate? What level of data service would be appropriate? Are costs associated with back-up power endurance, backhaul resiliency, physical infrastructure resiliency, recovery plans, and/or redundant or alternate network implementations appropriate in this context? Should the Commission instead allow carriers to include in their proposals how and to what degree they would harden their networks, and factor that information into the evaluation of proposals?

92. We also propose to require second-stage participants to provide more detailed information to support tracking of recovery efforts. Although mobile carriers already provide information on coverage (but not signal strength, antenna alignment, and throughput) on a biannual basis through FCC Form 477, that information does not reveal the real-time status of communications systems in the aftermath of a disaster. Carriers currently have the option to provide information about the status of their infrastructure via the Commission’s voluntary Disaster Information Reporting System (DIRS),<sup>118</sup> and we propose to require carriers who accept USF funding through the Uniendo a Puerto Rico Fund and the Connect USVI Fund to participate in DIRS. We seek comment on this proposal and on the data that

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<sup>114</sup> See *Connect America Fund; Universal Service Reform – Mobility Fund*, Order on Reconsideration and Second Report and Order, 32 FCC Rcd 6282, 6298, para. 34 (2017).

<sup>115</sup> See, e.g., Vitelcom Emergency Petition at 1.

<sup>116</sup> A description is available at <https://www.tiaonline.org/news-media/press-releases/tia-announces-publication-tia-222-h-standard-antennas-and-supporting>.

<sup>117</sup> See FCC, CSRIC Best Practices, <https://opendata.fcc.gov/Public-Safety/CSRIC-Best-Practices/qb45-rw2t/data>.

<sup>118</sup> See FCC, Disaster Information Reporting System (DIRS), <https://www.fcc.gov/general/disaster-information-reporting-system-dirs-0> (“DIRS is a voluntary, efficient, web-based system that communications companies, including wireless, wireline, broadcast, and cable providers, can use to report communications infrastructure status and situational awareness information during times of crisis.”).

DIRS should seek. Would it be appropriate to require mobile carriers to provide coverage maps, signal strength, antenna alignment, and throughput on a periodic basis in DIRS? How often should these reports be provided? Would it be appropriate to require coverage maps at a more granular boundary value, for example -98 dBm to reflect indoor coverage for both voice and data? Would it be appropriate to require carriers to include information about disruptions to backhaul? Should the DIRS data contain more information about the customers' experience with their mobile service, for example by including more information about the condition of backhaul? If so, at what intervals? What are the costs and benefits of requiring additional reporting? When might it be appropriate to relieve carriers of any enhanced reporting requirements?

93. We anticipate that any second-stage mobile participants in the Uniendo a Puerto Rico Fund and the Connect USVI Fund would continue to adhere to the current post-disaster resiliency framework<sup>119</sup> for some time and seek comment on when that framework should and should not apply. First, are there common metrics used across providers to determine whether and when to open roaming capabilities? Should we no longer expect adherence to the framework when coverage has been rebuilt to pre-hurricane levels? If so, should there be a minimum level of service associated with such coverage? Alternatively, would a set time period for continued adherence, such as one year, be more appropriate and reduce administrative burden? If so, what time period would be appropriate? Finally, should a similar framework be adopted for fixed providers?

94. We also anticipate that any second-stage participants in the Uniendo a Puerto Rico Fund and the Connect USVI Fund would coordinate any construction and access issues with other carriers and state and federal agencies to minimize duplicative facilities, hardening, construction, digging, and other activity. We believe that such coordination could help rebuild service in these areas more quickly and efficiently. We seek comment on whether voluntary coordination is sufficient or if we should adopt specific requirements. Commenters should identify specific carrier obligations and a framework for coordination. If we adopted requirements, are there any reporting obligations that would be appropriate to ensure cooperation?

95. Finally, we understand that much of Puerto Rico still lacks electrical power.<sup>120</sup> Communications networks require reliable power to operate. We seek comment on what obligations providers should bear to ensure that their networks can function even when the electrical power grid is down. For instance, we seek comment on whether carriers could run their networks using energy sources readily available in Puerto Rico and the U.S. Virgin Islands that do not need to be shipped from elsewhere. We seek comment on the applicable costs of sustainable back-up power. What are the costs of maintaining generators on-site versus using portable generators? What are the costs and additional considerations of obtaining renewable back-up power versus traditional power methods?

#### **4. Other Alternatives**

96. Finally, we seek comment on other alternatives.

97. We seek comment on a petition filed by PRTC on January 19, 2018, asking the Commission to “create a \$200 million emergency Universal Service Fund designated to facilitate restoration of service in insular areas by [ETCs] in Puerto Rico.”<sup>121</sup> PRTC’s request encompasses support for both fixed and mobile providers in Puerto Rico. It suggests we distribute funds “based on a percentage of the consumer service disruption credits provided by facilities-based ETCs to end user customers” or “in proportion to the total number of lines each facilities-based ETC restores during the

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<sup>119</sup> See *Improving the Resiliency of Mobile Wireless Communications Networks*, Order, 31 FCC Rcd 13745 (2016).

<sup>120</sup> See, e.g., PRTRB *Ex Parte* at Attach.

<sup>121</sup> PRTC Emergency USF Petition at 1.

next twelve months.”<sup>122</sup> We seek specific comment on whether additional short-term funding is necessary for Puerto Rico given the actions we take today. If we were to pursue such relief, how could we ensure that any funds are well spent? Do carriers regularly offer “service disruption credits,” or do different carriers offer different options to their consumers? And would such an emergency fund create a perverse incentive of rewarding those carriers that had greater service disruptions vis-à-vis those that recovered more quickly from the hurricanes?

98. We also seek comment on the petition filed by Viya proposing a one-time infusion of \$45 million in support to help it rebuild its fixed network in the U.S. Virgin Islands,<sup>123</sup> the petition filed by Viya on October 5, 2017, that sought “a supplemental, one-time infusion of up to \$50 million for carriers to rebuild wireless networks using hurricane-hardened facilities” in the U.S. Virgin Islands,<sup>124</sup> and the petition filed by Open Mobile seeking additional high-cost support and an advance on its support payments.<sup>125</sup> We seek specific comment on whether additional short-term funding is necessary for the U.S. Virgin Islands given the actions we take today. If we were to pursue such relief, how could we ensure that any funds are well spent?

## V. PROCEDURAL MATTERS

99. *Paperwork Reduction Act Analysis.* This Order does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. Facilities-based providers already submit subscriber information to the Commission in FCC Form 477. Therefore, this Order also does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198.<sup>126</sup>

100. This Notice contains proposed new information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and OMB to comment on the information collection requirements contained in this document, as required by PRA. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, we seek specific comment on how we might “further reduce the information collection burden for small business concerns with fewer than 25 employees.”<sup>127</sup>

101. *Final Regulatory Flexibility Certification.* Because the Order relies upon the good cause exception to notice and comment procedures, no final regulatory flexibility analysis is required under 5 U.S.C. § 604.

102. *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>128</sup> The RFA generally defines “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”<sup>129</sup> In addition, the term “small business” has the same meaning as the term “small business concern” under the Small

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<sup>122</sup> *Id.* at 8-9.

<sup>123</sup> Viya Emergency Wireline Petition.

<sup>124</sup> Vitelcom Emergency Petition at 2.

<sup>125</sup> Open Mobile Petition.

<sup>126</sup> *See* 44 U.S.C. 3506(c)(4).

<sup>127</sup> *Id.*

<sup>128</sup> 5 U.S.C. § 605(b).

<sup>129</sup> 5 U.S.C. § 601(6).

Business Act.<sup>130</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>131</sup>

103. This Notice proposes annual support to rebuild, improve, and expand fixed and mobile services in Puerto Rico and the U.S. Virgin Islands. The Notice proposes making support available to any fixed or mobile provider who obtains an ETC designation, using a competitive and subscriber-based process, respectively. Ten fixed and mobile carriers in Puerto Rico and the U.S. Virgin Islands currently receive high-cost support.<sup>132</sup> Even assuming other carriers will obtain an ETC designation to receive part of the additional support proposed by the Notice, we do not anticipate the proposed rule to affect more than 15 providers out of the 737 providers currently receiving high-cost support. Accordingly, we anticipate that this 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 Notice will not have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. § 605(b).

104. *Congressional Review Act.* The Commission will send a copy of this Order to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

105. *Comments.* All comments to this Notice should be filed in WC Docket No. 18-143, The Uniendo a Puerto Rico Fund and the Connect USVI Fund.

## VI. ORDERING CLAUSES

106. 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, 1.3, and 1.412 of the Commission's rules, 47 CFR §§ 1.1, 1.3, and 1.412, that this Order and Notice of Proposed Rulemaking ARE ADOPTED. The Order is effective upon publication in the Federal Register, and the Notice of Proposed Rulemaking is effective thirty (30) days after publication of the text or summary thereof in the Federal Register.

107. IT IS FURTHER ORDERED that, pursuant to section 1.3 of the Commission's rules, 47 CFR § 1.3, that section 54.313(c)(4) of the Commission's rules, 47 CFR § 54.313(c)(4), IS WAIVED to the extent described above.

108. IT IS FURTHER ORDERED that pursuant to applicable procedures set forth in sections 1.415 and 1.419 of the Commission's Rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments on the Notice of Proposed Rulemaking on or before 21 days from publication of this item in the Federal Register, and reply comments on or before 35 days from publication of this item in the Federal Register.

109. IT IS FURTHER ORDERED that the Commission SHALL SEND a copy of this Order on Reconsideration to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. § 801(a)(1)(A).

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<sup>130</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>131</sup> Small Business Act, 15 U.S.C. § 632.

<sup>132</sup> *See 2017 Hurricane Funding Order*, 32 FCC Rcd at 7987, Appx. A.

110. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Order on Reconsideration, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

**STATEMENT OF  
CHAIRMAN AJIT PAI**

Re: *The Uniendo a Puerto Rico Fund and the Connect USVI Fund, et al.*, WC Docket Nos. 18-143, 10-90, 14-58

For the people of Puerto Rico and the U.S. Virgin Islands, 2017 was an *annus horribilus*. First, Hurricane Irma bore down on the islands in September. Hurricane Maria came two weeks later, causing even greater devastation to homes, businesses, schools, hospitals—virtually anything tangible on the islands.

I have admired the resilience of those directly impacted by the hurricanes. Their perseverance was apparent to me during my first visit to Puerto Rico soon after the storm. And I could see how they had improved conditions when I returned to Puerto Rico and visited St. Croix and St. Thomas in March of this year. But I also sensed that this would be a marathon, not a sprint. Rebuilding and expanding networks would require more support.

That's where the FCC comes in. Ever since the 2017 hurricane season, our energies have been focused on responding to the aftermath of the storms—namely, ensuring the recovery and strengthening of communications networks. My proposal this past March to create the Uniendo a Puerto Rico Fund and the Connect USVI Fund was the centerpiece of this approach, and I'm glad my colleagues have now approved it.

In the near term, we provide additional funding to make sure network recovery continues. This infusion of support should help immediately, in 2018. What's more, we are allowing existing providers who have been serving the islands but were not previously getting universal service funds to access this funding once they've obtained an Eligible Telecommunications Carrier designation. Including those who have been invested in the territories will promote competition and consumer choice.

In the *Notice*, we look toward the long term and consider how funding to Puerto Rico and the U.S. Virgin Islands can enhance connectivity and help future-proof the territories' networks before the storms to come. Making the right calls now will help ensure that funding is fiscally responsible and enables as many people as possible in the territories to benefit from fixed and mobile communications.

But our work isn't finished. The Commission continues to work on various measures to help the territories prepare for the hurricane season ahead. To this end, the Public Safety and Homeland Security Bureau is currently evaluating the lessons learned from the 2017 hurricane season and how we can enhance our response and recovery operations. As we typically do after any season in which there are major hurricanes, we will make that information available to the public. This will allow those who are tasked with preparing for and responding to natural disasters to benefit from all the Commission has learned from last year's hurricane season. We will also be looking to add tools to the natural disaster toolbox we use to respond to hurricanes, particularly in the areas of engaging more efficiently with our regulatees and more widely with other stakeholders, such as local governments, other federal agencies, providers of utility services, etc. We will also consider to what extent we should enhance our collection, analysis, and provision of disaster-related information and how best to make that information available to those who need it most. We will also review the options for getting out information more quickly in languages other than English.

But back to the topic of this item: We are bringing together Puerto Rico and connecting the U.S. Virgin Islands. This is a tremendous step forward. I look forward to reviewing the record and working with my colleagues to find the best way to ensure that our fellow Americans get connected and *stay* connected as we head into the 2018 hurricane season.

**DECLARACIÓN DEL  
PRESIDENTE DE LA FCC AJIT PAI**

Con referencia a: *Uniendo a Puerto Rico Fund y Connect USVI Fund, et al.*, WC Docket Nos. 18-143, 10-90, 14-58

Para los ciudadanos de Puerto Rico y de las Islas Vírgenes de los Estados Unidos, 2017 fue un *annus horribilis*. Primero, el Huracán Irma azotó las islas en septiembre. Dos semanas después, el Huracán María tocó tierra, causando una devastación aún mayor en viviendas, comercios, escuelas y hospitales –prácticamente todo lo tangible en las islas.

He admirado la resiliencia de quienes resultaron afectados directamente por los huracanes. Su perseverancia se hizo evidente para mí durante mi primera visita a Puerto Rico, poco después de la tormenta. Y pude ver cómo las condiciones habían mejorado cuando regresé a Puerto Rico y visité St. Croix y St. Thomas, en marzo de este año. Pero también me di cuenta que esto sería un maratón, no una carrera corta. La reconstrucción y la expansión de las redes requerirían más respaldo.

Esa es una tarea que incumbe a la FCC. Desde la temporada de huracanes del año 2017, hemos concentrado nuestras energías en dar respuesta a las repercusiones de las tormentas –específicamente, asegurando la recuperación y el fortalecimiento de las redes de comunicaciones. La propuesta que hice en marzo pasado, de establecer el Uniendo a Puerto Rico Fund y el Connect USVI Fund ha sido el eje central de este enfoque y me alegra que ahora mis colegas la hayan aprobado.

En el corto plazo, proporcionamos financiamiento adicional para asegurarnos de que la recuperación de las redes continúe. Esta aportación de respaldo debería servir inmediatamente, en 2018. Más aun, le estamos permitiendo a los proveedores existentes que han estado prestando servicios en las islas y que antes no tenían acceso a fondos del servicio universal, acceder a este financiamiento una vez que hayan obtenido la denominación de Proveedor de Telecomunicaciones Elegible (Eligible Telecommunications Carrier, en inglés). La inclusión de quienes han invertido en los territorios fomentará la competencia y aumentará las opciones de los consumidores.

En el Aviso (Notice) tenemos una visión de largo plazo y consideramos de qué manera el financiamiento para Puerto Rico y para las Islas Vírgenes de los Estados Unidos puede mejorar la conectividad y ayudar a proteger las redes de comunicaciones de los territorios en el futuro, antes de la llegada de las tormentas. Adoptar las decisiones adecuadas ahora, ayudará a asegurar que el financiamiento sea fiscalmente responsable y permite que las comunicaciones fijas y móviles beneficien a tantas personas como sea posible en los territorios.

Pero nuestra labor no ha concluido. La Comisión continúa trabajando en varias medidas destinadas a ayudar a los territorios a prepararse para la próxima temporada de huracanes. Con este fin, la oficina de seguridad pública y nacional (Public Safety and Homeland Security Bureau, en inglés) está actualmente evaluando las lecciones aprendidas durante la temporada de huracanes del año 2017 y buscando formas de mejorar nuestras operaciones de respuesta y recuperación. Como lo hacemos normalmente tras temporadas con huracanes de gran magnitud, pondremos dicha información a disposición del público. Esto permitirá a quienes están a cargo de la preparación y respuesta para desastres naturales beneficiarse de todo lo aprendido por la Comisión durante la temporada de huracanes del año pasado. También buscaremos formas de agregar herramientas al conjunto de instrumentos que usamos para responder a los desastres naturales, específicamente ante huracanes, particularmente en lo que respecta a una participación más eficaz con nuestros regulados y más amplia con otras instancias interesadas, como los gobiernos locales, otras agencias federales, proveedores de servicios públicos, etc. También consideraremos en qué medida debemos mejorar nuestra recopilación, análisis y suministro de la información relacionada con desastres y las mejores formas de poner dicha información a disposición de quienes más la necesitan. Asimismo, examinaremos opciones para publicar la información en idiomas distintos al inglés, de manera más ágil.



Y volviendo al tema de esta declaración: estamos uniendo a Puerto Rico y conectando a las Islas Vírgenes de los Estados Unidos. Este es un tremendo avance. Espero con entusiasmo examinar los expedientes y trabajar con mis colegas, para encontrar la mejor forma de asegurar que nuestros compatriotas estadounidenses se conecten y se mantengan conectados mientras avanzamos hacia la temporada de huracanes 2018.

**STATEMENT OF  
COMMISSIONER MIGNON L. CLYBURN**

Re: *The Uniendo a Puerto Rico Fund and the Connect USVI Fund, et al.*, WC Docket Nos. 18-143, 10-90, 14-58

In September 2017, Hurricane Irma crossed the Caribbean and was soon followed by Hurricane Maria. These storms caused severe damage in Puerto Rico and the U.S. Virgin Islands and took many lives, homes and businesses. Most crops and other agricultural assets were wiped out and a significant part of the communications infrastructure was severely damaged. We all have seen the images of the devastation and destruction that was left but still, after nearly eight months, the recovery and rebuilding process is not even close to complete.

With this Order and Notice of Proposed Rulemaking, the Federal Communications Commission establishes the Uniendo a Puerto Rico Fund and the Connect USVI Fund to help rebuild, improve and expand voice and broadband networks on the islands. These funds—created specifically for the needs of these territories—will be tailored to replace the existing USF high-cost support on these islands. I am hopeful that our actions today will accelerate the recovery efforts and further deployment of fixed and mobile communications networks in high-cost areas of Puerto Rico and the U.S. Virgin Islands. With the new hurricane season approaching, we must not neglect the prior lessons learned during this rebuilding process, and prioritize the building of networks with improved resiliency, redundancy and recovery capabilities. The goal is to make sure that the next storms that regrettably may come during the next hurricane season, will not be as disruptive as the last.

Although our actions today promise to bring connectivity to the high-cost areas of these territories, if we truly want to close the digital divide, we must also take actions to improve the other side of the digital divide equation: affordability and adoption. Nearly half of the residents in Puerto Rico fall under the federal poverty line making affordability when it comes to communications services a clear issue. One of the Commission's most powerful tools for closing the digital divide is its Lifeline program. Almost 20 percent of the Puerto Rico's population rely on Lifeline, with 60 percent of eligible households signed up for the program—nearly double the national average. For these families, the service is quite literally a lifeline, facilitating connections to emergency services and critical health care. Under a pending proposal before the Commission, an estimated 75 percent of existing Lifeline customers in Puerto Rico could lose their telecommunications carrier. This would be like pouring salt in an open wound and prove counterproductive to our efforts to restore robust connectivity to the islands. We must safeguard the Lifeline program, and evaluate any negative impact that any of the proposals may have on those who need help the most.

The Commission is in a unique position to bring all stakeholders together, evaluate lessons learned, and ensure that there is a well-organized multi-stakeholder process in place to enable rapid recovery in case of disaster.

As always, but especially during a week designated by Congress as Public Service Recognition Week, I would like to extend my heartfelt thanks to the Commission staff for their hard work and dedication on this item, and everything else they do to make sure the Commission can complete its important work.

**DECLARACIÓN DE  
LA COMISIONADA DE LA FCC, MIGNON L. CLYBURN**

Con referencia a: *Uniendo a Puerto Rico Fund y Connect USVI Fund, et al.*, WC Docket Nos. 18-143, 10-90, 14-58

En septiembre de 2017, el Huracán Irma atravesó el Caribe y pronto fue seguido por el Huracán María. Estas tormentas causaron graves daños en Puerto Rico y en las Islas Vírgenes, llevándose numerosas vidas y destruyendo hogares y comercios. La mayoría de los cultivos y otros bienes agrícolas fueron arrasados y una porción significativa de la infraestructura de comunicaciones quedó severamente dañada. Todos hemos visto las imágenes de devastación y destrucción resultantes. Aun así, luego de casi ocho meses, el proceso de recuperación y reconstrucción está muy lejos de completarse.

Con esta orden y notificación formal de propuesta normativa (*Order and Notice of Proposed Rulemaking*), la Comisión Federal de Comunicaciones establece el *Uniendo a Puerto Rico Fund* y el *Connect USVI Fund* para ayudar a reconstruir, mejorar y ampliar las redes de voz y de banda ancha en las islas. Estos fondos --creados específicamente para cubrir las necesidades de estos territorios-- estarán diseñados para reemplazar el apoyo USF existente para gastos de alto costo en estas islas. Tengo la esperanza de que nuestras acciones de hoy acelerarán los esfuerzos de recuperación y el despliegue adicional de redes de comunicaciones fijas y móviles en las áreas de alto costo de Puerto Rico y de las Islas Vírgenes de los Estados Unidos. Ahora que se acerca la temporada de huracanes, no debemos olvidar las lecciones ya aprendidas durante este proceso de reconstrucción y dar prioridad al desarrollo de redes que cuenten con una resiliencia, redundancia y capacidad de recuperación mejoradas. La meta es asegurarnos de que las próximas tormentas --que desafortunadamente podrían llegar durante la próxima temporada de huracanes-- no sean tan perjudiciales como las más recientes.

Aunque nuestras acciones de hoy prometen brindar conectividad a las áreas de alto costo de estos territorios, si realmente queremos cerrar la brecha digital, también debemos adoptar acciones destinadas a mejorar el otro lado de la ecuación de la brecha digital: asequibilidad y adopción. Cerca de la mitad de los residentes de Puerto Rico viven por debajo del umbral federal de pobreza, lo que se traduce claramente en un problema de asequibilidad en materia de servicios de telecomunicaciones. Una de las herramientas más poderosas de la Comisión para cerrar la brecha digital es el programa Lifeline. Casi el 20 por ciento de la población de Puerto Rico depende de Lifeline. El 60 por ciento de los hogares elegibles están inscritos en el programa -- eso es más del doble que el promedio nacional. Para estas familias, el servicio es casi literalmente un salvavidas, facilitando las conexiones a los servicios de emergencia y a servicios de salud fundamentales. Conforme a una propuesta de norma pendiente ante la Comisión, se estima que un 75 por ciento de los clientes actuales de Lifeline en Puerto Rico podrían perder a su proveedor de telecomunicaciones. Esto sería como meter el dedo en la llaga y resultaría contraproducente ante nuestros esfuerzos para restablecer una conectividad robusta en las islas. Debemos resguardar el programa Lifeline y evaluar todo efecto negativo que cualquiera de las propuestas puedan tener sobre las personas más necesitadas.

La Comisión está en la posición única para convocar a todas las partes interesadas, evaluar las lecciones aprendidas y así asegurar el establecimiento de un proceso con representación de intereses múltiples, bien organizado, que permita una rápida recuperación en casos de desastre.

Como siempre, pero especialmente durante la semana designada por el Congreso como la semana del reconocimiento a la función pública (*Public Service Recognition Week*) me gustaría dar mis agradecimientos más sinceros a los funcionarios de la Comisión por su arduo trabajo y dedicación a este tema y a todo lo demás que hacen por asegurarse de que la Comisión logre completar su importante labor.

**STATEMENT OF  
COMMISSIONER MICHAEL O'RIELLY**

Re: *The Uniendo a Puerto Rico Fund and the Connect USVI Fund, et al.*, WC Docket Nos. 18-143, 10-90, 14-58

Despite substantial rebuilding and restoration efforts by both the public and private sectors in Puerto Rico and the U.S. Virgin Islands, the areas devastated by last year's hurricanes continue to face significant infrastructure and communications service challenges. Therefore, I support providing additional, targeted relief to assist with ongoing recovery, as long as there is sufficient oversight of the funding and support is provided in a manner that comports with our long-standing universal service principles. I appreciate that the item has been revised to address these issues, so I will vote to approve.

With respect to the near-term or "stage 1" funding, I supported edits of my colleague, Commissioner Carr, to place additional safeguards on the funding, and offered my own to protect against the conditioning or diversion of universal service support for other purposes. Indeed, I have urged the agency to include what I have called "guardrails" in each universal service reform order that has come before us to help ensure that scarce universal service dollars are used as intended. Here, it is also critical that funding be used to restore service, as it seems that prior emergency funding had little impact, except to help pay off old debts.

Regarding the longer-term or "stage 2" funding, it is important to recognize that the Commission has never implemented Connect America Fund (CAF) obligations for price cap carriers serving these territories. Specifically, back in 2011, the Commission determined that the cost model that would be used to calculate support for carriers nationwide might not adequately account for different operating conditions in the non-contiguous parts of the country. Therefore, the Commission allowed carriers serving these areas to receive support at pre-existing levels pending the adoption of tailored CAF plans. Similarly, mobile carriers have continued to receive frozen support and, since they will not be part of the Mobility Fund Phase II auction, the Commission must likewise adopt a tailored Mobility Fund plan for these areas. In short, while stage 2 will be an important part of the ongoing rebuilding process, it is also critical to get it right, as this will become the plan for these areas for years to come, just as the Commission has adopted plans for the various types of carriers serving Alaska.

With that in mind, I sought to adjust those portions of the Notice that may not have been exactly aligned with our important universal service reform principles. In particular, the Commission uses reverse auctions, wherever feasible, to allocate and distribute ongoing support. Given that there are multiple, overlapping mobile providers in Puerto Rico, it seemed illogical that we would want to continue to provide support to all of them for years without even having a game plan for phasing out redundant funding in the future. After all, another bedrock of our universal service reforms is that the Commission will only provide funding to one provider per area (and no funding in any area with an unsubsidized competitor). I am generally pleased that the item now proposes to conduct a reverse auction for mobile providers after a transitional period and that the competitive proposal process on the fixed side has been modified to be more auction like – in other words, more algorithmic and less discretionary.

Furthermore, I was concerned about providing additional funding to Puerto Rico because it has admitted to diverting 9-1-1 fees paid for by its communications users. Fortunately, the Governor has provided written assurance that it is taking steps to fix the problem and will not divert fees going forward. I intend to ensure that this commitment is met on an on-going basis.

I do remain troubled by a proposal in the item to *require* recipients of this particular funding to participate in the Commission's *voluntary* Disaster Information Reporting System (DIRS). We have not required other USF recipients to use DIRS. Moreover, these territories are not the only places in the country that experience natural disasters. If there were concerns about the level of participation or information collected through DIRS during the horrific hurricanes in Puerto Rico and the U.S. Virgin Islands, such incidents should have been outlined in the item. During times of natural disasters, I

generally am more concerned with ensuring people are safe and that service is restored than with mandatory reporting requirements. Further, it begs the question why the Commission isn't conducting a rulemaking of general applicability, rather than imposing obligations piecemeal on providers who may have no choice but to accept them.

Finally, I continue to believe that the Commission should work with Congress to determine whether any additional support provided through universal service could be reimbursed through emergency funding appropriated for hurricane relief. Other hurricane damaged infrastructure is being restored through appropriated funding, not from fees on consumers' bills. And because of our budget limitations, providing additional funding from universal service generally comes at the expense of other recipients. Targeted funding from Congress would ensure that qualifying providers and beneficiaries receive the relief needed to rebuild and restore service without impeding the important work of other universal service program participants to connect unserved communities.

**DECLARACIÓN DEL  
COMISIONADO DE LA FCC, MICHAEL O'RIELLY**

Con referencia a: *Uniendo a Puerto Rico Fund y Connect USVI Fund, et al.*, WC Docket Nos. 18-143, 10-90, 14-58

A pesar de los sustanciales esfuerzos de reconstrucción y restauración realizados por los sectores público y privado, en Puerto Rico y en las Islas Vírgenes de los Estados Unidos, las áreas devastadas por los huracanes del año pasado continúan enfrentando significativos retos en lo que respecta a infraestructura y a los servicios de comunicaciones. Por lo tanto, concuerdo en que se provea socorro adicional específico para asistir en la recuperación en curso, siempre y cuando la supervisión de los financiamientos sea suficiente y el apoyo sea aportado de forma acorde con nuestros principios tradicionales para el servicio universal. Aprecio que la disposición haya sido revisada para resolver estos temas, así que le daré mi voto de aprobación.

Respecto los financiamientos de corto plazo o de la “primera etapa” (“*stage 1*”), concuerdo con las revisiones de mi colega, el Comisionado Carr, que establecen resguardos adicionales para los financiamientos. Y he ofrecido mis propias revisiones, destinadas a impedir el acondicionamiento o desvío de los fondos de asistencia del servicio universal hacia otros propósitos. De hecho, he instado a la agencia a incluir lo que he denominado como “barandas” (*guardrails*) en cada orden de reforma del servicio universal que estemos considerando, para asegurarnos de que los escasos dólares del servicio universal sean usados para el propósito con que fue creado. En esto, también es de importancia fundamental que los fondos se usen para restablecer los servicios, ya que aparentemente los financiamientos de emergencia otorgados previamente no surtieron mayor efecto, excepto el de ayudar a pagar antiguas deudas.

Respecto al financiamiento de largo plazo o de la “etapa 2” (“*stage 2*”), es importante reconocer que la Comisión nunca ha implementado las obligaciones del *Connect America Fund (CAF)* en lo que respecta a topes de precios para los proveedores que atienden estos territorios. Específicamente, en 2011, la Comisión determinó que el modelo de costos que sería utilizado para calcular el apoyo a los proveedores a nivel nacional podría no considerar adecuadamente las condiciones de operación diferentes en las zonas no contiguas del país. Por lo tanto, la Comisión permitió que los proveedores que atienden dichas áreas siguieran recibiendo los niveles de financiamiento ya existentes hasta que se adopten planes CAF adaptados para dichas zonas. De igual forma, los proveedores de comunicaciones móviles han seguido recibiendo los fondos congelados y dado que no serán parte de la subasta del fondo de movilidad de la segunda etapa (*Mobility Fund Phase II*) la Comisión también deberá adoptar un plan de movilidad (*Mobility Plan*) diseñado específicamente para dichas áreas. En resumen, mientras por un lado la etapa 2 será una parte importante del proceso de reconstrucción en curso, también es fundamental que sea diseñada adecuadamente, dado que se convertirá en el plan para estas áreas por muchos años más –de la misma forma que la Comisión ha adoptado planes para los diversos tipos de proveedores que atienden Alaska.

Con eso en mente, procuré ajustar las porciones de la notificación (*Notice*) que posiblemente no estaban alineadas con exactitud y conforme a nuestros importantes principios de reforma del servicio universal. En particular, la Comisión usa las subastas inversas, dondequiera sea posible, para asignar y distribuir la asistencia continua. Dado que en Puerto Rico hay múltiples proveedores móviles, superpuestos, no parece lógico continuar proporcionándoles asistencia a todos durante años sin contar con un plan de acción destinado a eliminar gradualmente la asistencia redundante en el futuro. Después de todo, otra piedra angular de nuestras reformas del servicio universal es que la Comisión solo otorgará fondos a un proveedor por área (y no dará financiamiento en áreas donde haya competidores que no cuenten con subsidio). En general, me complace que la disposición proponga ahora la conducción de una subasta inversa para los proveedores de servicios móviles tras un periodo de transición y que el proceso competitivo de propuestas para los servicios fijos haya sido modificado para parecerse más a una subasta –en otras palabras, más algorítmico y menos discrecional.

Además, me preocupaba otorgar financiamiento adicional a Puerto Rico dado que ha admitido haber desviado fondos destinados al servicio 9-1-1 pagados por sus usuarios de comunicaciones. Afortunadamente, el Gobernador ha proporcionado garantía escrita de que está adoptando medidas para resolver el problema y que no desviará los fondos en el futuro. Planeo asegurarme de que dicho compromiso se cumpla de forma continua.

Aun me preocupa la propuesta incluida en la disposición para *exigir*, a los beneficiarios de este financiamiento en particular, su participación en el sistema *voluntario* de información de desastres (*Disaster Information Reporting System, DIRS*). No le hemos exigido a ningún otro beneficiario del USF el uso del DIRS. Más aun, estos territorios no son los únicos lugares del país que experimentan desastres naturales. Si había alguna inquietud respecto al nivel de participación o de información recopilada mediante el DIRS durante los horribles huracanes en Puerto Rico y en las Islas Vírgenes de los Estados Unidos, dichos incidentes debieron haber sido establecidos en la disposición. En momentos de desastres naturales, en general me preocupa más asegurarnos de que las personas estén a salvo y que los servicios sean restablecidos, en lugar de imponer exigencias obligatorias de suministro de información. Además, surge la pregunta de por qué la Comisión no elabora una norma de aplicación general, en lugar de imponer obligaciones de manera fragmentaria a proveedores que podrían no tener más opción que aceptarlas.

Finalmente, sigo creyendo que la Comisión debería trabajar con el Congreso para determinar si cualquier asistencia adicional otorgada vía el servicio universal pudiera ser reembolsada mediante fondos de emergencia consignados para el alivio de huracanes. Otra infraestructura dañada por huracanes está siendo restaurada con fondos consignados, no con tarifas que aparecen en las cuentas de los consumidores. Y dadas las limitaciones de nuestro presupuesto, el otorgamiento de fondos adicionales del servicio universal generalmente se obtiene a expensas de otros beneficiarios. Una financiación orientada específicamente por el Congreso aseguraría que los proveedores calificados y los beneficiarios recibieran el alivio necesario para reconstruir y restablecer los servicios, sin obstaculizar la importante labor de otros participantes del programa de servicio universal en la conexión de las comunidades desatendidas.

**STATEMENT OF  
COMMISSIONER BRENDAN CARR**

Re: *The Uniendo a Puerto Rico Fund and the Connect USVI Fund, et al.*, WC Docket Nos. 18-143, 10-90, 14-58

Last fall, Hurricanes Irma and Maria brought widespread damage to Puerto Rico and the U.S. Virgin Islands. While telecommunications companies have been working for months to restore networks that were damaged in the storms, much more work remains to be done. For example, the FCC found in March that four percent of cell sites in Puerto Rico and 12 percent of cell sites in the U.S. Virgin Islands remained out of service.<sup>1</sup> With respect to wireline networks, some companies have told us that they have been able to restore service to only a portion of their customer base. And continued power outages are compounding already challenging network restoration efforts – for example, by some estimates, as of mid-April, more than 50,000 customers remained without power in Puerto Rico.<sup>2</sup>

It's going to take a lot of work and financial resources to repair the destruction caused by Hurricanes Irma and Maria. And with the 2018 hurricane season rapidly approaching, it is even more imperative that the FCC act swiftly to assist with restoration efforts. That's why I'm glad this Commission has taken several concrete steps to do just that. The agency has deployed teams, issued emergency authorizations, waived rules, and helped facilitate access to fuel and other resources. Additionally, FCC leadership quickly stood up a task force dedicated to assisting with recovery efforts and collecting information the agency can use to support disaster preparedness. Last October, we advanced nearly \$66 million in universal service funding to help get networks back online in Puerto Rico and the Virgin Islands.

The item we adopt today would build on those efforts in three key ways. First, we take steps to allow carriers to make continued use of last fall's advanced support payments. Second, we provide up to an additional \$64 million in immediate funding to help carriers restore damaged facilities right now. Third, we propose to make nearly \$890 million in long-term funding available to support the deployment of fixed and mobile broadband networks. Taking these steps will allow providers to rebuild and speed up efforts to harden broadband infrastructure to prevent a repeat of the 2017 hurricane season.

In considering this item, I'm glad my colleagues agreed to include edits to increase accountability and ensure that limited universal service funds are used for their intended purpose. By more clearly delineating what constitutes eligible short-term expenditures, as well as requiring carriers to comply with document retention and auditing requirements, we will incentivize the prudent spending of program funds while at the same time helping to restore communications services where they are most needed.

So this item has my support. I look forward to reviewing the record as it develops and continuing to work with my colleagues and all stakeholders to find ways we can continue to assist with hurricane restoration efforts.

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<sup>1</sup> Communications Status Report for Areas Impacted by Hurricane Maria (Mar. 21, 2018), [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-349827A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-349827A1.pdf).

<sup>2</sup> Trevor Houser and Peter Marsters, Rhodium Group, *In a Class of its Own Within the US* (Apr. 12, 2018), <https://rhg.com/research/puerto-rico-hurricane-maria-worlds-second-largest-blackout/>.



**DECLARACIÓN DEL  
COMISIONADO DE LA FCC, BRENDAN CARR**

Con referencia a: *Uniendo a Puerto Rico Fund y Connect USVI Fund, et al.*, WC Docket Nos. 18-143, 10-90, 14-58

El otoño pasado, los huracanes Irma y María causaron extensos daños en Puerto Rico y en las Islas Vírgenes de los Estados Unidos. Aunque las compañías de telecomunicaciones han estado trabajando durante meses para restablecer las redes dañadas por las tormentas, aún queda mucho más trabajo por completar. Por ejemplo, la FCC determinó en marzo que el cuatro por ciento de los emplazamientos celulares en Puerto Rico y el doce por ciento de los emplazamientos celulares en las Islas Vírgenes de los Estados Unidos aun están fuera de servicio.<sup>1</sup> Respecto a las redes fijas, algunas compañías nos han dicho que solamente han logrado restablecer el servicio a una porción de su clientela. Y las continuas interrupciones del suministro de energía eléctrica agregan dificultad a los ya complejos esfuerzos de restablecimiento de las redes. Por ejemplo, según algunas estimaciones, a mediados de abril más de 50 mil consumidores seguían sin suministro eléctrico en Puerto Rico.<sup>2</sup>

Reparar la destrucción causada por los huracanes Irma y María requerirá mucho trabajo y recursos financieros. Y con la inminente llegada de la temporada de huracanes 2018, es aún más imperativo que la FCC actúe ágilmente, para asistir en los esfuerzos de recuperación. Por eso estoy contento de que esta Comisión haya dado varios pasos concretos justamente en esa dirección. La agencia ha emplazado equipos de trabajo, ha emitido autorizaciones de emergencia, ha aplicado exenciones y ha ayudado a facilitar el acceso a combustibles y otros recursos. Adicionalmente, el liderazgo de la FCC rápidamente formó un equipo de trabajo dedicado a apoyar los esfuerzos de recuperación y a recopilar información que la agencia puede usar para apoyar la preparación para situaciones de desastre. En octubre pasado, adelantamos un monto cercano a los \$66 millones de una financiación del servicio universal para ayudar a restablecer la conexión de las redes en Puerto Rico y en las Islas Vírgenes.

La disposición que adoptamos hoy aprovechará esos esfuerzos de tres maneras clave: Primero, damos pasos conducentes a permitirle a los proveedores dar uso continuado a los desembolsos de apoyo anticipados el otoño pasado. Segundo, proporcionamos fondos adicionales por hasta \$64 millones en financiamiento inmediato para ayudar a los proveedores a restablecer ahora mismo las instalaciones dañadas. Tercero, proponemos dar acceso a un monto cercano a los \$890 millones en financiamiento de largo plazo, disponibles para respaldar el desarrollo de redes de banda ancha fija y móvil. La adopción de estas medidas permitirá a los proveedores reconstruir y acelerar los esfuerzos destinados a reforzar la infraestructura de banda ancha para evitar que se repita el escenario de la temporada de huracanes 2017.

Al considerar esta disposición, me alegra que mis colegas hayan acordado incluir revisiones destinadas a reforzar la rendición de cuentas y a asegurar que los limitados fondos del servicio universal sean usados para el propósito al que han sido destinados. Al delinear con mayor claridad lo que constituye costos de corto plazo elegibles y exigir a los proveedores el cumplimiento de la conservación de documentos y de los requisitos de auditorías, incentivaremos el gasto prudente de los fondos del programa y a la vez ayudaremos a restablecer los servicios de comunicaciones donde más se necesitan.

Así que doy mi apoyo a esta disposición. Espero con entusiasmo revisar el expediente a medida que se desarrolla y continuar trabajando con mis colegas y con todas las partes interesadas para encontrar formas destinadas a seguir apoyando los esfuerzos de recuperación tras los huracanes.

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<sup>1</sup> Informe del estado de las comunicaciones para las zonas afectadas por el huracán María (21 de marzo de 2018), [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-349827A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-349827A1.pdf).

<sup>2</sup> Trevor Houser and Peter Marsters, Rhodium Group, *En una clase propia dentro de los Estados Unidos* (12 de abril de 2018), <https://rhg.com/research/puerto-rico-hurricane-maria-worlds-second-largest-blackout/>.

**STATEMENT OF  
COMMISSIONER JESSICA ROSENWORCEL  
APPROVING IN PART, DISSENTING IN PART**

Re: *The Uniendo a Puerto Rico Fund and the Connect USVI Fund, et al.*, WC Docket Nos. 18-143, 10-90, 14-58

Eight months ago, Hurricane Maria made landfall in Puerto Rico and the US Virgin Islands. The storm visited just a few weeks after Hurricane Irma swept through the same area. It brought harsh and unforgiving weather—and left its mark. All told, the islands sustained damages of as much as \$85 billion. Power outages were widespread, reaching 80 percent of the power lines. Communications networks were torn apart, with 95 percent of cell sites out of service following the storm.

Of course, numbers like these do not tell the whole story. Six months after Hurricane Maria arrived in the Caribbean, I traveled to Puerto Rico. It's a lush and beautiful place. But the damage done by hurricane season was many months later, still out in the open, for all to see. Traffic lights didn't work. Streets were unnaturally dark. Tarps covered parts of buildings. Construction gates surrounded stray blocks of concrete and rebar. There were gashes in infrastructure and signs missing along roadways that needed no explanation. These are the marks of the storm's damage that don't go away, that remind residents of the awful harm that wind and rain can do to a community, its economy, and its way of life.

I also saw extraordinary heroism. In a rural village in Toa Baja I met with community leaders who organized their neighbors when a nearby creek swelled and threatened homes near the sugar cane fields. When the water poured in, their fast thinking saved hundreds of lives when they mobilized the entire community to seek higher ground and take shelter in a school. They lived there together for a week until they were safely relocated to another site. Today, they are rebuilding the tight-knit community, salvaging what has not been ruined, and reconstructing what still needs repair. But even six months after the storm, this community still lacked basic power and communications.

These images inform my thinking about this Order and Notice of Proposed Rulemaking, which I largely support. It establishes a universal service funding mechanism dedicated to rebuilding and expanding voice and broadband networks on both Puerto Rico and the US Virgin Islands. This approach will replace the existing system of universal service support currently available on these islands. Specifically, it will provide an immediate infusion of funds to help with restoration efforts and additional funds to support communications over the long haul.

This is a serious effort. But it cannot mask a more fundamental failure in the aftermath of this humanitarian crisis. Following past storms of this magnitude, the Federal Communications Commission held public hearings and issued reports summarizing the scope of the communications failure and itemizing the best practices and policy changes that would strengthen our response in future disasters. So it was following Hurricane Katrina, when the FCC got out of the office and held a public hearing to assess the damage done. It followed up with a report with over ten pages of recommendations for improving network resiliency, public safety coordination, and emergency communications. Similarly, following Superstorm Sandy, the FCC held public hearings in the affected area and took the lessons learned and informed its wireless reliability and technology transitions policies. But despite the epic devastation from Hurricane Maria, the FCC failed to hold any public hearings to discuss this communications disaster in the affected area. The FCC refused to do even a basic report as we have done in the past. This is a shame. Puerto Rico and the US Virgin Islands deserve the same treatment from this agency as communities on the mainland. Moreover, this was a lost opportunity because efforts like these could have informed our approach in this rulemaking. Our failure to do even a simple assessment on par with what has been done in the past through hearings and reports is an ugly mistake. In this regard, I dissent.

Finally, it is necessary to point out that there is an ongoing FCC proceeding that could damage so much of the good we do today. More than 500,000 people in Puerto Rico rely on the FCC's Lifeline program for communications service. Without it, they are unable to reach out in crisis, seek emergency

healthcare, and rebuild what the storm rendered fragile in their lives. Nonetheless, the FCC has a pending rulemaking that would all but dismantle the Lifeline program in Puerto Rico. I hope the FCC rethinks its approach—because supporting universal service infrastructure will do little good if the agency undermines the very program that residents of these islands rely on to make use of those facilities.

This is a complex effort. Serious gratitude goes to the staff of the FCC behind this proceeding and all others at the agency who do extraordinary work to help communities recover from disaster and restore communications.

**DECLARACIÓN DE  
LA COMISIONADA DE LA FCC, JESSICA ROSENWORCEL  
EN COINCIDENCIA PARCIAL Y DISIDENCIA PARCIAL**

Con referencia a: *Uniendo a Puerto Rico Fund y Connect USVI Fund, et al.*, WC Docket Nos. 18-143, 10-90, 14-58

Hace ocho meses, el Huracán María arrasó a Puerto Rico y a las Islas Vírgenes de los Estados Unidos. La tormenta llegó pocas semanas después de que el Huracán Irma azotara esa misma área. María produjo condiciones atmosféricas duras e inclementes dejando su rastro. En su totalidad, los daños en la isla llegaron a los \$85 mil millones. Los cortes de energía eléctrica fueron masivos, alcanzando al 80 por ciento de las líneas eléctricas. Las redes de comunicaciones quedaron destrozadas, con el 95 por ciento de las torres celulares quedando fuera de servicio tras la tormenta.

Por supuesto, las cifras por sí no reflejan toda la historia. Seis meses después de la llegada del Huracán María al Caribe, yo viajé a Puerto Rico. Es un lugar exuberante y hermoso. Pero el daño causado por la temporada de huracanes se evidenciaba claramente a la vista de todos, aún varios meses después. Los semáforos no funcionaban. Las calles estaban extrañamente oscuras. Los edificios estaban parcialmente cubiertos por lonas. Barreras de construcción rodeaban bloques de concreto y acero. Se observaban tajos en la infraestructura y rótulos ausentes a lo largo de las carreteras, lo cual no requería explicaciones. Estos son los rastros indelebles del paso de la tormenta, que les recuerdan a los residentes los terribles daños que el viento y la lluvia pueden causar a una comunidad, a su economía y a su forma de vida.

También vi un heroísmo extraordinario. En un poblado rural de Toa Baja me reuní con líderes comunitarios que organizaron a sus vecinos cuando un arroyo cercano creció amenazando los hogares situados cerca de los campos de caña de azúcar. Cuando el agua inundó la zona, su actuación diligente en trasladar a todos a terrenos más elevados y un refugio en una escuela, salvó cientos de vidas. Todos se quedaron viviendo allí por una semana hasta que fueron trasladados a otro lugar. Hoy en día, están reconstruyendo su unida comunidad, salvaguardando lo que no fue arruinado y arreglando lo que todavía necesita ser reparado. Pero aún seis meses después de las tormentas esta comunidad carecía de energía eléctrica y de servicios de comunicaciones básicos.

Estas imágenes influyeron mis reflexiones sobre esta orden y notificación formal de propuesta normativa (*Order and Notice of Proposed Rulemaking*), la cual apoyó en gran medida. La misma establece un mecanismo para el fondo de servicio universal dedicado a reconstruir y ampliar las redes de voz y de banda ancha tanto en Puerto Rico como en las Islas Vírgenes de los Estados Unidos. Este mecanismo reemplazará al sistema de apoyo del servicio universal actualmente disponible en estas islas. Específicamente, proporcionará una infusión inmediata de fondos para asistir en los esfuerzos de recuperación, y fondos adicionales para dar apoyo a las comunicaciones a largo plazo.

Este es un esfuerzo importante. Pero no puede disimular una falla fundamental en las secuelas de esta crisis humanitaria. En el pasado, tras tormentas de esta magnitud, la Comisión Federal de Comunicaciones celebró vistas públicas y emitió informes resumiendo el alcance de las averías en los servicios de comunicaciones y enumerando las mejores prácticas y los cambios de políticas públicas que fortalecerían nuestras acciones al enfrentar desastres en el futuro. Así pasó tras el Huracán Katrina, cuando la FCC viajó fuera de sus oficinas y celebró una vista pública para evaluar los daños. La FCC le dió seguimiento a la vista redactando un informe de más de diez páginas ofreciendo recomendaciones para mejorar la resiliencia de las redes, la coordinación de la seguridad pública y las comunicaciones de emergencia. De forma similar, tras la Supertormenta Sandy, la FCC celebró vistas públicas en el área afectada aplicando las lecciones aprendidas y así instruyendo sus políticas de fiabilidad inalámbrica y de transición tecnológica. Pero a pesar de la devastación gigantesca causada por el Huracán María, la FCC no celebró ninguna vista pública en el área afectada para hablar de este desastre de las comunicaciones. La FCC hasta se negó a preparar el informe básico que hemos presentado en el pasado. Esto es una lástima. Puerto Rico y las Islas Vírgenes de los Estados Unidos merecen el mismo trato por parte de esta

agencia al que reciben las comunidades ubicadas en el continente. Es más, se ha desperdiciado una oportunidad, porque esfuerzos como éste podrían haber servido para instruir nuestro enfoque en esta formulación de normas. Que no hayamos realizado ni la más simple evaluación equivalente a las que se han realizado en el pasado, mediante vistas e informes, es un error inquietante. En este sentido, difiero.

Finalmente, es necesario señalar que hay un procedimiento vigente ante la FCC que podría perjudicar a gran parte del bien que hacemos hoy. Más de quinientas mil personas en Puerto Rico dependen del programa Lifeline de la FCC para recibir servicios de comunicaciones. Sin él no pueden comunicarse en momentos de crisis, ni pedir asistencia médica de emergencia, ni reconstruir los aspectos de su diario vivir que la tormenta menoscabó. No obstante, hay una formulación de normativa pendiente en la FCC que podría dismantelar el programa Lifeline en Puerto Rico. Espero que la FCC reconsidere su enfoque – porque respaldar la infraestructura del servicio universal no servirá de mucho si la agencia socava el programa que los residentes de estas islas utilizan dicha infraestructura.

Este es un esfuerzo complejo. Agradezco en especial la labor de los funcionarios de la FCC en este procedimiento y a todos quienes realizan un trabajo extraordinario en la agencia para ayudar a las comunidades a recuperarse después de los desastres y a restablecer los servicios de comunicaciones.