

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
	)	

**REPORT AND ORDER AND ORDER ON REVIEW**

**Adopted: April 19, 2023**

**Released: April 19, 2023**

By the Commission: Chairwoman Rosenworcel issuing a statement.

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**I. INTRODUCTION**

1. In this Report and Order, we continue our efforts to bolster mobile and fixed voice and broadband services throughout Puerto Rico and the U.S. Virgin Islands (the Territories). In the aftermath of Hurricanes Maria and Irma in 2017, the Commission committed to ensuring the restoration, hardening, and expansion of advanced telecommunications networks in the Territories by creating the Bringing Puerto Rico Together Fund (PR Fund) and the Connect USVI Fund.<sup>1</sup> As part of these efforts, the Commission adopted a plan to support state-of-the-art mobile wireless networks in the Territories,

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<sup>1</sup> *The Uniendo a Puerto Rico Fund and the Connect USVI Fund*, WC Docket No. 18-143, Order and Notice of Proposed Rulemaking, 33 FCC Rcd 5404, 5408, para. 13 (2018) (*Stage 1 Order* or *Stage 2 NPRM*) (establishing the two stages of the Bringing Puerto Rico Together Fund and the Connect USVI Fund).

including the 5G services being deployed nationwide, and adopted a single-round competitive process to award fixed broadband support tied to defined broadband deployment obligations. Without Commission action, the support that mobile and incumbent fixed providers receive through these Funds will end by June 2023. The recent devastation caused by Hurricane Fiona in Puerto Rico, however, demonstrates the continued need for support to restore, harden, and expand critical communications infrastructure in areas prone to hurricanes.

2. We take action to ensure support for providers in the Territories to continue strengthening their existing networks. First, we extend the PR Fund and the Connect USVI Fund mobile support for up to two years, with support at 50% of its current monthly support level in the first year and 25% of its current monthly support level in the second year. We also extend phase-down frozen support for fixed voice and broadband providers until December 31, 2025. Our actions enable providers in the Territories to strengthen and harden mobile networks and make existing fixed networks more resilient and redundant while new networks are built. In addition, in this Order on Review, we deny the Puerto Rico Telephone Company's (PRTC) Application for Review of the Wireline Competition Bureau's (Bureau) Public Notice declaring Liberty Communications of Puerto Rico LLC (Liberty) as the winning applicant in the PR Fund Stage 2 competitive process with respect to certain municipios.<sup>2</sup> Based on the record before us, we find that PRTC failed to establish grounds to overturn the Bureau's decision. We therefore affirm the Bureau's determinations and deny the Application for Review.

## II. BACKGROUND

3. Hurricane Irma and Hurricane Maria caused widespread devastation in the Territories in 2017. The destruction extended to the advanced telecommunications networks in the Territories, which left many residents isolated and unable to connect with family or emergency service personnel in the aftermath of the storms. In response to the hurricanes, the Commission acted quickly to aid in restoring service and to ensure the hardening and expansion of advanced telecommunications networks in the Territories by creating the PR Fund and the Connect USVI Fund.<sup>3</sup> As the Commission noted, however, simply restoring service to pre-2017 levels was not the only goal of the Funds; because the Territories continue to be subject to hurricanes, the long-term goal is to "facilitate the deployment of fast, resilient, and reliable networks to all parts of the islands that will stand the test of time and provide digital opportunity to all Americans living in Puerto Rico and the U.S. Virgin Islands."<sup>4</sup>

4. The PR Fund and the Connect USVI Fund support state-of-the-art mobile wireless and fixed networks. For mobile wireless, these Funds are leading to the expansion and hardening of 4G LTE networks and the deployment of next-generation 5G-New Radio (5G-NR) networks across the Territories.<sup>5</sup> For fixed services, by phasing down frozen high-cost support and replacing it with broadband-targeted support, these Funds are efficiently leading to deployment of resilient and redundant networks that will provide all locations in Puerto Rico with access to at least 100/20 megabits per second (Mbps), 31.5% of those locations with at least 1 gigabit per second (Gbps) download and 500 Mbps upload, and all locations in the U.S. Virgin Islands with access to at least 1 Gbps/500 Mbps.

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<sup>2</sup> Application of PRTC for Review of the Public Notice of the Wireline Competition Bureau Announcing Winners in the Uniendo a Puerto Rico Fund Stage 2 Competitive Process, WC Docket Nos. 18-143, 10-90 (filed Dec. 2, 2020) (Application for Review). PRTC subsequently modified its request for confidentiality as to portions of its Application for Review and refiled a copy of its Application for Review for public inspection on August 20, 2021. Letter from Edgar Class, Counsel for PRTC, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 18-143, 10-90, 14-58 (Aug. 20, 2021) (Amended PRTC Application) available at <https://www.fcc.gov/ecfs/filing/10820800615610>.

<sup>3</sup> *Stage 1 Order*, 33 FCC Rcd at 5408, para. 13.

<sup>4</sup> *The Uniendo a Puerto Rico Fund and the Connect USVI Fund et al.*, WC Docket No. 18-143, Report and Order and Order on Reconsideration, 34 FCC Rcd 9109, 9110, para. 2 (2019) (*2019 PR USVI Order*).

<sup>5</sup> *See 2019 PR USVI Order*, 34 FCC Rcd at 9167, 9171-72, paras. 114, 122-24.

5. In the midst of these efforts, the floods, landslides, and outages from Hurricane Fiona in 2022 demonstrated that communications infrastructure in these storm-prone insular areas must be further strengthened to withstand storm damage and have redundant capabilities, and that continuing support in the Territories for fixed and mobile providers is needed. The public safety benefits to be gleaned are vast: strengthening and adding redundancy to the communications infrastructure will better enable the general population and the authorities to notify, prepare, evacuate, locate, and rescue victims of natural disasters. With the currently authorized support for mobile wireless ending starting in June 2023 and the phase-down of frozen support for fixed voice and broadband ending in May 2023 (as newly funded networks are still being deployed), we provide continued, needed support to facilitate this transition by acting on proposals stemming from our October 2022 Further Notice of Proposed Rulemaking (*Transitional Support FNPRM*).<sup>6</sup>

#### A. Mobile Interim Support

6. In 2019, the Commission adopted the *2019 PR USVI Order*, which allocated additional support to facilitate the restoration of damaged mobile networks in Puerto Rico and the U.S. Virgin Islands, and to harden and deploy modern, high-speed, and storm-hardened advanced telecommunications networks.<sup>7</sup> The Commission adopted a three-year budget of up to \$254.4 million for the PR Fund and up to \$4.4 million for the Connect USVI Fund. These funds were intended to not only restore mobile network coverage to prior service levels, but also to foster greater access to advanced telecommunications for the Territories.<sup>8</sup>

7. The Commission provided eligible facilities-based mobile carriers a one-time election of funding for a three-year funding period with support based on their relative subscriber counts in the Territories before the 2017 hurricanes.<sup>9</sup> An eligible mobile carrier could elect to receive: (1) up to 75% of its total support allocated in the *2019 PR USVI Order* to restore, harden, and expand networks capable of providing 4G LTE or better services at outdoor data transmission rates of at least 10/1 Mbps;<sup>10</sup> and (2) up to 25% of its total eligible support allocated in the *2019 PR USVI Order* to deploy networks capable of providing 5G-NR service at outdoor data transmission rates of at least 35/3 Mbps.<sup>11</sup> Nearly all eligible mobile carriers in Puerto Rico and the U.S. Virgin Islands elected to receive 100% of their total eligible support to restore, harden, and expand 4G LTE and 5G-NR communication networks.<sup>12</sup>

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<sup>6</sup> *The Uniendo a Puerto Rico Fund and the Connect USVI Fund*, WC Docket No.18-143, Further Notice of Proposed Rulemaking, FCC 22-79 (Oct. 28, 2022) (*Transitional Support FNPRM*) (seeking comment on providing transitional support for mobile providers while a long-term funding mechanism is established, and on extending the phase-down of frozen support to ensure the reliability of existing networks as new networks are deployed).

<sup>7</sup> *2019 PR USVI Order*, 34 FCC Rcd at 9162-63, 9166, 9167, paras. 101-102, 111-12, 114.

<sup>8</sup> *Id.* at 9166, para. 111.

<sup>9</sup> *Id.* at 9162-63, para. 101. Subscriber counts were based on June 2017 FCC Form 477 data. 47 CFR § 54.1509(c); *2019 PR USVI Order*, 34 FCC Rcd at 9164-65, paras. 106-107.

<sup>10</sup> 47 CFR §§ 54.1509(c), 54.1514(b)(1); *see also 2019 PR USVI Order*, 34 FCC Rcd at 9171, para. 122 (discussing 4G LTE).

<sup>11</sup> 47 CFR §§ 54.1509(c), 54.1514(b)(2); *see also 2019 PR USVI Order*, 34 FCC Rcd at 9172, para. 124 (discussing 5G-NR).

<sup>12</sup> *See Wireline Competition Bureau Authorizes Stage 2 Mobile Support for Certain Providers Participating in the Uniendo a Puerto Rico Fund and the Connect USVI Fund*, WC Docket No. 18-143, Public Notice, 35 FCC Rcd 6321, 6324, Attach. A (WCB 2020) (starting the support period in June 2020 for AT&T, PRTC, and T-Mobile in Puerto Rico, and AT&T in the U.S. Virgin Islands); *Wireline Competition Bureau Authorizes Stage 2 Mobile Support for T-Mobile in Puerto Rico*, WC Docket No. 18-143, Public Notice, 35 FCC Rcd 10303, 10305, Attach. A (WCB 2020) (authorizing additional mobile support in September 2020 for T-Mobile based on its acquisition of PR Wireless PR, LLC); *Wireline Competition Bureau Authorizes Stage 2 Mobile Support for Viya in the U.S. Virgin*

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8. In addition to requiring specific network performance criteria, the Commission imposed obligations and reporting requirements on mobile recipients.<sup>13</sup> Where a recipient uses its high-cost support to harden its network, the recipient is required to demonstrate how it used the support by annually submitting a map and detailed narrative description of its network hardening activities from the prior calendar year.<sup>14</sup> The Commission also adopted interim and final benchmarks for the full restoration of mobile network coverage.<sup>15</sup> At the end of the three-year term of support, in 2023, each mobile support recipient must have restored its mobile network coverage to areas that are equal to or greater than 100% of its pre-hurricane coverage.<sup>16</sup> For the deployment of 5G-NR technology, the Commission required carriers to submit annual reports for the costs related to deployment during the preceding 12-month period.<sup>17</sup> Carriers must return any Stage 2 support that is not used to restore, harden, or expand their 4G LTE and 5G-NR capable networks.<sup>18</sup>

### B. Fixed Support

9. For fixed broadband services, the *2019 PR USVI Order* adopted comprehensive funding mechanisms that would make services available to all locations throughout Puerto Rico and the U.S. Virgin Islands,<sup>19</sup> and ultimately authorized approximately \$127.1 million of high-cost support in the Territories for a 10-year period.<sup>20</sup> The Commission employed a single-round competitive proposal process to select applicants based on the lowest score for a series of weighted, objective criteria for price and network performance, including speed, latency, and usage allowance.<sup>21</sup> The competitive proposal process also placed significant weight on resiliency and redundancy to account for the heightened risk of

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*Islands*, WC Docket No. 18-143, Public Notice, 35 FCC Rcd 11555, 11557, Attach. A (WCB 2020) (starting the support period in October 2020 for Viya) (collectively *Mobile Authorization Notices*).

<sup>13</sup> 47 CFR §§ 54.313, 54.316, 54.1514(d), 54.1515.

<sup>14</sup> 47 CFR § 54.1514(d). The first deadline to submit reports was November 16, 2022. *Wireline Competition Bureau Revises Reporting Deadlines for PR-USVI Stage 2 Mobile Recipients*, WC Docket No. 18-143, Public Notice, DA 22-896 (WCB Aug. 29, 2022) (setting a deadline of November 16, 2022, for current support recipients to file their annual reports) (*Stage 2 Reporting Deadline Public Notice*).

<sup>15</sup> 47 CFR § 54.1513(b).

<sup>16</sup> *Id.* The Commission provided that the mobile network coverage milestones will be determined in comparison to the network coverage areas prior to the hurricanes based on June 2017 FCC Form 477 data. *2019 PR USVI Order*, 34 FCC Rcd at 9170, para. 119; *see also* 47 CFR §§ 54.1509(c), 54.1510.

<sup>17</sup> 47 CFR § 54.1514(e).

<sup>18</sup> 47 CFR § 54.1509(d); *2019 PR USVI Order*, 34 FCC Rcd at 9172, para. 125. PR-USVI Stage 2 support may also be used to deploy distributed antenna systems (DAS) networks within public or publicly accessible facilities that aid disaster response. *See Uniendo a Puerto Rico Fund and the Connect USVI Fund; Connect America Fund*, WC Docket No. 18-143, Declaratory Ruling, DA 22-719 (WCB 2022).

<sup>19</sup> *2019 PR USVI Order*, 34 FCC Rcd at 9146, 9148, paras. 67, 70.

<sup>20</sup> *Wireline Competition Bureau Announces Winning Applicants for the Connect USVI Fund Stage 2 Competitive Process*, WC Docket No. 18-143, Public Notice, 35 FCC Rcd 12921 (WCB 2020); *Wireline Competition Bureau Announces Winning Applicants for Uniendo a Puerto Rico Fund Stage 2 Competitive Process*, WC Docket No. 18-143, Public Notice, 35 FCC Rcd 12699 (WCB 2020); *Connect USVI Fund Stage 2 Support Authorized for Broadband VI*, WC Docket No. 18-143, Public Notice, 36 FCC Rcd 9405 (WCB 2021) (*USVI Fixed Authorization Notice*); *Wireline Competition Bureau Authorizes Stage 2 Support for Puerto Rico Telephone Company and Liberty Communications of Puerto Rico*, WC Docket No. 18-143, Public Notice, 36 FCC Rcd 9914 (WCB 2021) (*PR Fixed Authorization Notice*) (collectively *Fixed Authorization Notices*).

<sup>21</sup> *Id.* at 9114-16, paras. 11, 13; *see also Uniendo A Puerto Rico Fund and Connect USVI Fund Notice and Filing Requirements and Other Procedures for Stage 2 Fixed Competitive Proposal Process*, WC Docket No. 18-143, Public Notice, 35 FCC Rcd 218, 220, 252-55, paras. 2, 124-34 (2020) (*Procedures Public Notice*).

natural disasters in the Territories. The applicant with the lowest combined overall score for each geographic area won support for that area.<sup>22</sup>

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

11. Following the competitive processes, the Bureau announced the winning carriers and authorized them to receive fixed support.<sup>25</sup> Each support recipient is required to “deploy a network that is fully capable of delivering speeds and usage allowances that meet or exceed—and latency that meets or falls below—the relevant standards to all locations within the geographic area.”<sup>26</sup> Thus, as a condition of receiving support, each winning carrier must deploy to all locations within a geographic area to meet the Commission’s goals of ensuring resilient service to all parts of the Territories and its decision to make all locations eligible for support.<sup>27</sup> Using the most recent data available at the time, the Bureau determined there to be approximately 46,039 locations in the USVI and 1,222,508 locations in Puerto Rico where the winning carriers must make voice and broadband services available.<sup>28</sup> Each winning carrier must complete its network deployment such that it will begin offering mass-market service to 40% of the locations in its service area by December 31, 2024, with an additional 20% deployment required each subsequent year and 100% deployment to all locations by December 31, 2027.<sup>29</sup>

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

<sup>23</sup> *Id.* at 9156, para. 87. Frozen support was authorized in the 2011 Connect America Fund Order, when the Commission announced that “all existing legacy high-cost support to price cap carriers” would be frozen at its current amount, and the price cap carriers that accepted that support would be subject to deployment obligations. *Connect America Fund*, WC Docket No. 10-90, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17673, para. 22 (2011). In the *December 2014 Connect America Fund Order*, WC Docket No. 10-90, Report and Order, 29 FCC Rcd 15644, 15661-63, paras. 45-49 (2014), the Commission decided to allow price-cap carriers in insular areas, including Puerto Rico and the U.S. Virgin Islands, to elect to continue receiving frozen high-cost support amounts in exchange for accepting tailored service obligations to be adopted at a later date. PRTC (in Puerto Rico) and Viya (in the U.S. Virgin Islands) elected to receive frozen support, and the Commission subsequently established in 2019 specific service obligations for competitive carriers as part of Stage 2 of the Bringing Puerto Rico Together Fund and the Connect USVI Fund. 2019 PR USVI Order, 34 FCC Rcd at 9121-46, paras. 21-66.

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

<sup>25</sup> See *Fixed Authorization Notices*.

<sup>26</sup> 2019 PR USVI Order, 34 FCC Rcd at 9121, para. 22.

<sup>27</sup> *Id.* at 9143, para. 59.

<sup>28</sup> *Wireline Competition Bureau Releases Updated List of Reserve Prices and Location Counts for the Uniendo a Puerto Rico Fund and Connect USVI Fund Stage 2 Fixed Support Competitive Proposal Process*, WC Docket No. 18-143, Public Notice, 35 FCC Rcd 8228, Attach. (2020).

<sup>29</sup> 47 CFR § 54.1506; *USVI Fixed Authorization Notice*, 36 FCC Rcd at 9407; *PR Fixed Authorization Notice*, 36 FCC Rcd at 9916. The Commission recognized when adopting the requirement that all locations be served in Puerto Rico and the USVI that specific data available at that time regarding the number of actual locations might be inaccurate and that population shifts following the Hurricanes could affect the number of locations. 2019 PR USVI Order, 34 FCC Rcd at 9143, para. 60. The Commission established a location adjustment process to resolve

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12. In the *Fixed Authorization Notices*, the Bureau also announced that the frozen support the incumbents received would be phased down in accordance with the *2019 PR USVI Order*, with phase-down support ending entirely by May 2023.<sup>30</sup> The phase-down support amounts specified in the *Fixed Authorization Notices* would immediately replace the frozen support the incumbent previously received for areas where another applicant's competitive proposal was selected as the winning proposal.<sup>31</sup>

13. In light of the approaching end of the phase-down of frozen support for fixed service and the end of Stage 2 mobile support, we issued the *Transitional Support FNPRM* in October 2022.<sup>32</sup> In the *Transitional Support FNPRM*, we sought comment on “proposals to ensure that mobile carriers continue to implement advanced telecommunications services and that fixed providers have sufficient resiliency and redundancy during the transition periods of the Bringing Puerto Rico Together Fund and the Connect USVI Fund.”<sup>33</sup>

### III. REPORT AND ORDER

14. After a careful review of the record, we adopt many of our proposals from the *Transitional Support FNPRM*. For mobile service, we adopt a transitional support period of up to 24 months, which will allow support recipients to continue to receive support for hardening their networks as we work to develop a long-term funding mechanism. For fixed service, we extend the phase-down of frozen support at its current monthly amount until December 31, 2025. This extension of support will allow those fixed providers to harden their networks and ensure continuous service as new, storm-hardened networks are deployed throughout the Territories.

#### A. Transitional Funding for Mobile Services

15. We adopt a transitional support period of up to 24 months for eligible facilities-based mobile carriers currently receiving Stage 2 mobile support. In the *Transitional Support FNPRM*, we sought comment on a number of issues relating to the provision of mobile support: whether transitional support should be provided after the current Stage 2 funding ends; the proper level of transitional support until a long-term funding mechanism is established; the appropriate length of a transitional support schedule; and several other issues.<sup>34</sup>

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discrepancies between the estimated number of locations identified by the Bureau and the actual total number of all locations, to which the winning applicant must deploy qualifying voice and broadband. *2019 PR USVI Order*, 34 FCC Rcd at 9144-46, paras. 63-66. A winning carrier may seek to reduce its deployment obligations within its winning area if it is able to demonstrate by a preponderance of the evidence that there are fewer locations that exist than identified by the Bureau as part of a mandatory one-year location adjustment process. *Id.* at 9144-45, paras. 63-65. Moreover, a winning carrier may seek a voluntary reassessment of the number of locations after the fifth year of support. This reassessment process “will allow the Bureau to determine whether to adjust any deployment requirements based on newly-available data or changes in circumstances.” *Id.* at 9145-46, para. 66. Thus, if the actual number of locations, all of which must be served, in a municipio or island is higher or lower than what was initially determined, support can be adjusted accordingly. Although the location adjustment process is currently delayed, the Bureau expects to implement the adjustment process based on an internal review of the Broadband Data Collection's Fabric data and broadband availability map.

<sup>30</sup> 47 CFR § 54.1504(b); see also *USVI Fixed Authorization Notice*, 36 FCC Rcd at 9410; *PR Fixed Authorization Notice*, 36 FCC Rcd at 9919-20.

<sup>31</sup> *2019 PR USVI Order*, 34 FCC Rcd at 9156, para. 87. See also *USVI Fixed Authorization Notice*, 36 FCC Rcd at 9410; *PR Fixed Authorization Notice*, 36 FCC Rcd at 9919-20.

<sup>32</sup> *Transitional Support FNPRM*.

<sup>33</sup> *Id.* at 2, para. 2.

<sup>34</sup> *Id.* at 4-8, paras. 10-20.

16. *Transition for Mobile Support.* In the *Transitional Support FNPRM*, we proposed a period of transitional support so carriers currently receiving Stage 2 mobile support would not see their support abruptly end at the conclusion of Stage 2.<sup>35</sup> We also sought comment on whether all facilities-based carriers that receive Stage 2 mobile support should be eligible to receive transitional support.<sup>36</sup>

17. Commenters unanimously supported our proposal for the provision of transitional support, which we now adopt.<sup>37</sup> The record shows that if we do not provide transitional support after the conclusion of Stage 2, all mobile wireless carriers receiving Stage 2 support would face a sudden, significant loss of support, which could harm their ability to provide service to consumers and endanger critical communications needs. With heightened risk from hurricanes, any lapse in funding, no matter how brief, may undermine progress made in increasing the robustness of existing 4G LTE services and 5G-NR services.<sup>38</sup> We conclude that it is in the public interest to provide transitional support to help carriers strengthen and harden their existing networks and make advanced telecommunications service more resilient. This support will be for a limited period while we develop a long-term funding mechanism for mobile support in the Territories.

18. *Eligibility for Transitional Support.* We limit eligibility for transitional support to the facilities-based providers currently receiving Stage 2 mobile support in a given area. While T-Mobile proposed expanding eligibility to all facilities-based mobile carriers, including those that do not currently receive Stage 2 mobile support in a given area, if the transitional support amount we adopt is lower than existing Stage 2 mobile support,<sup>39</sup> we decline to adopt this proposal. Our goal in providing transitional support is ensuring that the current recipients are able to continue their existing efforts to strengthen their networks until a long-term funding mechanism is established. We believe that eligibility for other potential support recipients is best addressed as part of a long-term funding mechanism. Allowing other carriers to receive transitional support would require additional resources to administer, which would then delay and thwart the goal of this transitional support—to ensure that current support recipients can continue serving consumers without interruption.

19. *Transitional Support Schedule.* We adopt a 24-month transitional support schedule, with support ending before 24 months if a long-term funding mechanism is established. In the *Transitional Support FNPRM*, we proposed a support schedule of up to 24 months—beginning in the month immediately following the conclusion of each eligible carrier’s current Stage 2 mobile support—in order to ensure continuous funding for recipients of Stage 2 mobile support. We also proposed ending transitional support once support is authorized under a long-term funding mechanism, even if such support was authorized before the 24-month period ended. Finally, we sought comment on extending the 24-month schedule if authorizations under a long-term funding mechanism have not occurred by that time.<sup>40</sup>

20. Commenters generally supported our proposal of establishing a 24-month transitional support schedule, and having that support end before 24 months if a long-term funding mechanism is established.<sup>41</sup> We now adopt that proposal. Transitional support will extend for 24 months after the end of the current term for Stage 2 mobile support and will end the month after a long-term funding mechanism is established, if such mechanism is established before the 24-month period ends.

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<sup>35</sup> *Id.* at 4-5, para. 11.

<sup>36</sup> *Id.* at 5, para. 11.

<sup>37</sup> *See, e.g.*, Liberty Comments at 9; T-Mobile Comments at 2.

<sup>38</sup> *Transitional Support FNPRM* at 5, para. 12.

<sup>39</sup> T-Mobile Comments at 7-8.

<sup>40</sup> *Transitional Support FNPRM* at 5, paras. 12-13.

<sup>41</sup> Liberty Comments at 9; T-Mobile Comments at 2.

Specifically, we will deem the long-term funding mechanism established the month after such support is authorized. Furthermore, we emphasize that no carrier shall receive transitional support and long-term support in the same month.

21. Many commenters supported automatically extending the 24-month schedule if a long-term funding mechanism has not been established by the end of the 24-month schedule.<sup>42</sup> We decline to adopt this proposal. We believe that transitional funding is only meant to have a limited duration. Although PRTC noted that the Commission should act now to permit transitional support to continue until there is a long-term mobile funding mechanism in place in order to conserve public resources and protect against any potential gap in funding,<sup>43</sup> it is not in the public interest to commit to maintaining funding beyond 24 months without our first examining its effects on network hardening and resiliency, or any other changed circumstances in the Territories. We conclude that we will be able to better determine the appropriate support amount in the future once we have been able to evaluate the effectiveness of transitional support, and we therefore decline to extend transitional support beyond its scheduled 24-month period.

22. *Transitional Support Amounts.* In the *Transitional Support FNPRM*, we proposed providing transitional support to all current support recipients in the amount that they currently receive for 5G-NR technologies, meaning that carriers would receive 25% of their current monthly support amount as transitional support for both years of the transitional support period.<sup>44</sup> We tentatively concluded that carriers had rebuilt and hardened their existing 4G-capable networks, and, as a result, less support would be required moving forward as we focused on facilitating the deployment of 5G-NR service.<sup>45</sup>

23. Commenters generally opposed our proposal to reduce support to 25% of current monthly levels.<sup>46</sup> Commenters argued that the proposed support reduction would leave them unable to sufficiently harden their existing networks, which would ultimately harm consumers.<sup>47</sup> Other commenters argued that reduced support would impair 5G-NR deployment.<sup>48</sup> After careful consideration of the record, we adopt a modified version of our proposal, and will provide transitional support recipients with 50% of their current monthly support level for both 4G LTE and 5G-NR<sup>49</sup> in the first year of transitional support, then

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<sup>42</sup> PRTC Comments at 5-6; Liberty Comments at 9.

<sup>43</sup> PRTC Comments at 6-7.

<sup>44</sup> *Transitional Support FNPRM* at 5-7, paras. 14-15.

<sup>45</sup> *Id.* at 5-6, paras. 14-15.

<sup>46</sup> *See, e.g.*, Liberty Comments at 2-3; T-Mobile Comments at 2-3. In its recent filing, T-Mobile argues that setting transitional support at an amount below the current level of Stage 2 mobile support could constitute a violation of the Administrative Procedure Act. Letter from Indra Sehdev Chalk, T-Mobile USA, Inc., to Marlene Dortch, Secretary, FCC, WC Docket No. 18-143 et al., at 2-3 (filed Apr. 14, 2023) (T-Mobile *Ex Parte*). We disagree. While commenters, all but one of whom currently receive Stage 2 mobile support, opposed our proposal to make the amount of transitional support lower than the current amount of Stage 2 mobile support, our judgment, as explained in more detail below, is that less support will be needed during the brief transitional support period, as Stage 2 support recipients have largely rebuilt their networks to their pre-hurricane status. *See infra* para. 24.

<sup>47</sup> *See, e.g.*, PRTC Comments at 8-9; Letter from Ferdinand Ramos-Soegaard, Interim President of the Puerto Rico Telecommunications Bureau, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 18-143, 10-90 (filed Apr. 17, 2023).

<sup>48</sup> PRTC Comments at 11-13.

<sup>49</sup> We note that the transitional support amount we adopt is based on the monthly Stage 2 mobile support amount an eligible carrier receives and not the total eligible pro-rated Stage 2 mobile support amount that was previously authorized to carriers based on Form 477 subscriber data. *See 2019 PR USVI Order*, 34 FCC Rcd at 9165-66, paras. 109-10.



25% of their current monthly support in the second year of transitional support.<sup>50</sup> We believe that these support amounts strike the appropriate balance between managing our limited universal service funding resources and providing sufficient support to ensure that consumers in the Territories receive the benefits of strengthened networks.

24. We disagree with some commenters who argue that the transitional support amounts should remain the same as the Stage 2 support amounts.<sup>51</sup> When we announced the three-year funding period for Stage 2, we were clear that we would “revisit the amount of support necessary to further expand and/or harden mobile service available in the Territories.”<sup>52</sup> As we noted in the *Transitional Support FNPRM*, we had tentatively found that carriers in the Territories will have sufficiently restored and hardened their networks to at least pre-hurricane levels by the conclusion of Stage 2,<sup>53</sup> so the level of transitional support should be lower than the current level of Stage 2 mobile support. While some support recipients argue that they have existing network upgrade plans that will cost more than the transitional support amounts they would receive,<sup>54</sup> the primary goal of Stage 2 mobile support was to help carriers restore their networks to at least their pre-hurricane status and to foster greater access to advanced telecommunications services in the Territories. We find those goals have been met.<sup>55</sup> The purpose of transitional support, in contrast, is to seamlessly provide some support that existing support recipients must use to harden mobile wireless networks to protect against future natural disasters.<sup>56</sup> As such, we find it appropriate to address additional support for 5G-NR deployment through a long-term funding mechanism rather than the transitional support considered here.<sup>57</sup> Accordingly, based on the progress that Stage 2 support recipients have already made, we do not believe that transitional support should continue at its current levels, and we adopt a reduced level of transitional support that will allow recipients to continue to make progress on strengthening and protecting their existing networks.

25. *Appropriate Use of Support.* In the *Transitional Support FNPRM*, we noted our past conclusion that carriers were rapidly investing in 5G-NR service throughout the United States and that

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<sup>50</sup> We recognize that current mobile support will end at different times for eligible carriers. *Supra* note 12. Therefore, we clarify that the first year of transitional support means the 12-month period in which transitional support is authorized following the end of each carrier’s current Stage 2 mobile support. Likewise, the second year of support means the period of time encompassing transitional support for the 13<sup>th</sup> through 24<sup>th</sup> months following the end of Stage 2 mobile support.

<sup>51</sup> See PRTC Comments at 4; T-Mobile *Ex Parte* at 1-2.

<sup>52</sup> 2019 PR USVI Order, 34 FCC Rcd at 9167, para. 115.

<sup>53</sup> *Transitional Support FNPRM* at 6, para. 14.

<sup>54</sup> See, e.g., PRTC Comments at 8; Letter from Robert L. Hoegle, Counsel for Liberty, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 18-143, 10-90 (filed Apr. 18, 2023) (*Liberty Ex Parte*). To the extent that Liberty’s projected expenditures will exceed the amount of support it will receive in the future, we note that the purpose of transitional support is not to cover the entirety of a recipient’s costs; instead, our focus is to bolster carrier spending to harden networks. 2019 PR USVI Order, 34 FCC Rcd at 9164, para. 106.

<sup>55</sup> Certified FCC Form 477 data submitted by each mobile support recipient demonstrates that more than 66% of its network coverage area, and nearly all mobile coverage, has been restored to pre-2017 hurricane levels. See Mobile Deployment Form 477 Data, available at <https://www.fcc.gov/mobile-deployment-form-477-data>, and PRTC Comments at 4 (stating that “full restoration of network coverage areas to pre-hurricane Maria levels using 4G LTE or better technologies has been accomplished”); Mobile Deployment Form 477 Data, available at <https://www.fcc.gov/mobile-deployment-form-477-data>.

<sup>56</sup> Because we believe that the provision of transitional support should be as seamless as possible, we also decline Viya’s proposal to adopt new support amounts in the U.S. Virgin Islands by “updat[ing] market share allocations to reflect current conditions pending adoption of a more complete and cohesive permanent mechanism.” Viya Reply at 7.

<sup>57</sup> See PRTC Comments at 11-13.

mobile customers in the Territories should not receive substandard service.<sup>58</sup> Based on our observation that carriers are moving toward 5G-NR deployment, we proposed limiting transitional support to “restoring, hardening, or expanding networks with 5G-NR-capable networks, and to end use of this support for 4G LTE.”<sup>59</sup> We alternatively sought comment on allowing support recipients to use transitional support to “restore (as necessary), harden, or expand networks with 4G LTE and 5G-NR baseline performance requirements and standards set forth in the *2019 PR USVI Order* or any subsequent standard adopted by [the] Commission.”<sup>60</sup>

26. Some commenters supported requiring transitional support to be used on 5G-NR-capable networks;<sup>61</sup> others disagreed, stating that limiting support to 5G-NR networks was too restrictive.<sup>62</sup> Additionally, many commenters asked us to clarify that transitional support could be used on 4G-capable networks if that support would benefit a shared 4G and 5G-NR network.<sup>63</sup> One commenter also proposed a waiver process that would allow transitional support to be used on 4G LTE networks.<sup>64</sup>

27. We conclude that recipients of transitional support must use it to improve the redundancy and resiliency of facilities for 4G LTE or better technologies, including the maintenance of backup power systems for such networks, to help ensure continuity of service by preventing or withstanding damage from natural disasters. While long-term 5G-NR network expansion is important, it is paramount, as Hurricane Fiona reminded us, that networks remain operational during times of natural disaster during this transitional period. To ensure that networks remain operational, ubiquitous hardening is necessary.<sup>65</sup> Consequently, we determine that transitional support must be used for redundancy and resiliency for any part of the network with 4G LTE or better technologies. Transitional support may be used for either current facilities or for newly built facilities, as we expect carriers will continue network expansion. Furthermore, recognizing the short-term nature of the support but still cognizant of recipients’ time needed to plan, we require all transitional support to be spent within one year of the conclusion of the transitional support period.<sup>66</sup>

28. While we encourage transitional support recipients to use funding for 5G-NR networks, we are also mindful of the short-term nature of transitional support and of the importance of hardened, resilient, and redundant networks. We also note that some physical infrastructure of 5G-NR-capable networks may be inseparable from the infrastructure of 4G LTE-capable networks,<sup>67</sup> such that an investment in a carrier’s network may benefit both 4G LTE- and 5G-NR-capable networks. Limiting transitional support to 5G-NR networks could ultimately end up harming the residents of the Territories who rely on existing 4G LTE and 5G-NR-capable networks.<sup>68</sup> By allowing transitional support recipients

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<sup>58</sup> *Transitional Support FNPRM* at 7, para. 16 (citing *2019 PR USVI Order*, 34 FCC Red at 9170-71, para 121).

<sup>59</sup> *Transitional Support FNPRM* at 7, para. 16 .

<sup>60</sup> *Id.*

<sup>61</sup> *See, e.g.*, T-Mobile Comments at 6.

<sup>62</sup> PRTC Comments at 16.

<sup>63</sup> Liberty Comments at 10; PRTC Reply at 14.

<sup>64</sup> PRTRB Comments at 5-6.

<sup>65</sup> PRTRB Reply at 3-4.

<sup>66</sup> *See infra* Appendix A, 47 CFR § 54.1516(d). *Cf.* Letter from L. Charles Keller, Counsel, Viya, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 18-143, at 2 (filed Mar. 17, 2023) (*Viya Ex Parte*) (noting the “permitting and power issues that all providers in the Territory face”).

<sup>67</sup> Liberty Comments at 10 (noting that, in some cases, the 4G and 5G networks use shared sites).

<sup>68</sup> Because transitional support may be used on both 4G and 5G-capable networks, we do not need to address the proposed waiver process that would allow transitional support to be used on 4G networks. PRTRB Comments at 5-6.

to use the support for both 4G LTE and 5G-NR-capable networks, we believe that we will encourage the deployment of 5G-NR service while also ensuring resilient networks.

29. *Eligible Areas.* In the *Transitional Support FNPRM*, we sought comment on continuing to allow support to be used throughout Puerto Rico and the U.S. Virgin Islands.<sup>69</sup> We also sought comment on limiting transitional support to less-populated areas of the Territories based on data from the Broadband Data Collection (BDC), and on whether alternative geographic or population limitations would be appropriate.<sup>70</sup>

30. Commenters unanimously supported allowing transitional support to be used throughout the Territories.<sup>71</sup> We agree, and do not impose a geographic requirement on where transitional support may be used within each Fund's respective territory. While we are mindful of our obligation to use data from the BDC,<sup>72</sup> we conclude that because we intend for carriers to use transitional support to strengthen and harden existing networks, it would be more appropriate to allow transitional support to be used throughout the Territories.<sup>73</sup> The entirety of these Territories are at risk from hurricanes, so geographically limiting where carriers can spend transitional support could hinder the benefit we aim to achieve. Additionally, we emphasize that this Order only establishes a short-term, transitional funding mechanism. We anticipate that the BDC maps will be an integral and fundamental part of a long-term funding mechanism.<sup>74</sup>

31. *Minimum Service Requirements and Reporting.* We adopt the Stage 2 performance and reporting requirements for carriers receiving transitional support, with a few modifications, consistent with our decisions in this Order. In the *Transitional Support FNPRM*, we proposed that carriers receiving transitional support "continue to be subject to performance and reporting requirements during the transitional support period."<sup>75</sup> We sought comment on the specific requirements to adopt and noted that current support recipients must: (1) comply with minimum service requirements for 4G LTE and 5G-NR technologies, (2) file reports and data regarding the use of support for hardening networks and 5G-NR technology deployment, (3) maintain a Disaster Preparation and Response Plan, and (4) perform mandatory reporting using the Disaster Information Reporting System (DIRS).<sup>76</sup>

32. Commenters generally supported our proposals, and several commenters stated that the minimum service requirements and reporting requirements for transitional support should remain the same as the current Stage 2 requirements, to minimize disruption as Stage 2 ends.<sup>77</sup> We agree with these commenters and adopt the Stage 2 performance and reporting requirements for carriers receiving transitional support, with a few modifications to reflect our decisions in this Order. We will continue to

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<sup>69</sup> *Transitional Support FNPRM* at 7, para. 17.

<sup>70</sup> *Id.*

<sup>71</sup> *See, e.g.*, PRTC Comments at 16; Liberty Comments at 11-12.

<sup>72</sup> *See* Pub. L. No. 116-130, 134 Stat. 228, 236 (regarding use of the Commission's Broadband DATA Act coverage maps "when making any new award of funding with respect to the deployment of broadband internet access service intended for use by residential and mobile customers").

<sup>73</sup> Furthermore, transitional support is not for "the deployment of broadband Internet access service" but is instead for the hardening of networks. *See* 47 U.S.C. § 642(c)(2)(B).

<sup>74</sup> *See, e.g.*, PRTRB Comments at 5 (arguing that maps should be used to more efficiently target support as part of a long-term funding mechanism).

<sup>75</sup> *Transitional Support FNPRM* at 8, para. 18; *see id.* at 7-8, para. 18 (tentatively concluding that "in exchange for accepting transitional support, each mobile carrier must commit to accountability measures for deployment in the Territories").

<sup>76</sup> *Id.*

<sup>77</sup> *See, e.g.*, T-Mobile Comments at 6-7; PRTC Comments at 17-18.

require support recipients to file (1) an annual map reporting the network hardening activities undertaken during the prior calendar year; and (2) a detailed narrative description of the network hardening activities identified and of how it made use of the support to facilitate those network hardening activities.<sup>78</sup> Given that the intended use of the support is to strengthen and harden rather than expand networks, transitional support recipients will not have to file reports detailing their 5G-NR technology deployment.<sup>79</sup> Support recipients also must maintain a Disaster Preparation and Response Plan and perform mandatory DIRS reporting.<sup>80</sup> In addition, carriers will be subject to the same minimum service requirements for 4G LTE and 5G-NR service that currently exist for Stage 2 mobile support.<sup>81</sup>

33. *Minimum Security Reporting and Requirements.* We also require transitional support recipients to submit network security reports. In recognition of the importance of network security, in the *Transitional Support FNPRM*, we proposed requiring transitional support recipients to “report and explain the network security controls that [they have] implemented and how they are commensurate with established best practices or an established risk management framework.”<sup>82</sup> In addition, we sought comment on requiring transitional support recipients to “report and explain to the Commission instances of unauthorized access to their systems and services.”<sup>83</sup>

34. As noted in the *Transitional Support FNPRM*, the “provision of advanced services necessitates a recognition that such services, in order to be effective and available, must be reasonably secure.”<sup>84</sup> All commenters agreed that requiring a report on network security controls is appropriate.<sup>85</sup> Accordingly, we require transitional support recipients to submit a network security report by August 31, 2023, that identifies and explains the network security controls implemented, their effectiveness in fending off cyberattacks and how those controls are commensurate with established network security best practices and standards or an established risk management framework.<sup>86</sup> A second report will be due by March 31, 2025, and will cover the time period between August 31, 2023 and March 1, 2025. These two reports will allow us to monitor changes and developments during the transitional support term. We note that commenters disagreed about whether we should require transitional support recipients to report and

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<sup>78</sup> See 47 CFR § 54.1514(d). The Bureau will publish a Public Notice detailing what must be provided in the hardening report.

<sup>79</sup> Nonetheless, we note that information collected from the BDC will provide information on any network expansion. See 47 CFR § 1.7004(c)(3)-(7).

<sup>80</sup> See 47 CFR § 54.1515.

<sup>81</sup> 2019 PR USVI Order, 34 FCC Rcd at 9171-72, paras. 122-24.

<sup>82</sup> *Transitional Support FNPRM* at 8, para. 19.

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> See, e.g., Liberty Comments at 12, PRTRB Comments at 6-7.

<sup>86</sup> See, e.g., NIST Computer Security Resource Center, Getting Started with the NIST Cybersecurity Framework: A Quick Start Guide (April 19, 2022), <https://csrc.nist.gov/Projects/cybersecurity-framework/nist-cybersecurity-framework-a-quick-start-guide> (providing a system development process that prepares an organization to identify, protect against, detect, respond to, and recover from cyber threats); NIST Computer Security Resource Center, About the NIST Risk Management Framework (July 14, 2022), <https://csrc.nist.gov/projects/risk-management/about-rmf> (providing a system development process that prepares an organization to manage security and privacy risks by categorizing the system and information processed, stored and transmitted by the system, selecting and implementing controls to protect the system, and continuously assessing the system to determine if the controls are providing the desired results); Cybersecurity and Infrastructure Security Agency (CISA), Cross-Sector Cybersecurity Performance Goals, <https://www.cisa.gov/cross-sector-cybersecurity-performance-goals> (last visited Apr. 18, 2023).

explain unauthorized network access.<sup>87</sup> While unauthorized access to systems and services is an important issue for networks we support, we find the record insufficient to make a determination at this time.<sup>88</sup> Accordingly, we will require transitional support recipients to submit network security reports but not report on unauthorized network access. Due to the inherently sensitive nature of information describing network security, we will treat these reports as presumptively confidential.<sup>89</sup>

35. *Election of Transitional Support.* In the *Transitional Support FNPRM*, we proposed requiring transitional support recipients to affirmatively elect to receive that support.<sup>90</sup> Commenters supported this idea,<sup>91</sup> which we now adopt. We believe requiring recipients to affirmatively elect to receive transitional support will ensure that they understand the specific requirements that come with accepting that support. Accordingly, eligible mobile carriers may elect to receive transitional support from their respective funds through an election process.

36. Carriers shall submit their election letters through the Commission's Electronic Comment Filing System (ECFS) specifically referencing the PR Fund and Connect USVI Docket Number 18-143 and to the Bureau at [ConnectAmerica@fcc.gov](mailto:ConnectAmerica@fcc.gov) within 15 days of the publication of this Order in the Federal Register. To elect the transitional mobile support, a carrier must submit a letter signed by an officer of the company confirming that the carrier elects the transitional mobile support described above and commits to satisfy the specific service obligations and requirements. If a carrier fails to submit any final election letter by the deadline, it will be deemed to have declined the transitional mobile support offer and will no longer continue to receive mobile high-cost support as part of either the PR Fund or the Connect USVI Fund. Carriers submitting election letters will receive an e-mail confirming that their election letters have been received and reviewed for completeness, and should contact the Bureau no later than five business days following the deadline if they have not received such confirmation.

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

37. As discussed in more detail above,<sup>92</sup> as part of the *2019 PR USVI Order*, the Commission adopted a comprehensive long-term funding mechanism for fixed voice and broadband in the Territories via a single-round competitive proposal process (Stage 2 fixed support). Proposals were evaluated based on a series of objective criteria. As part of that funding mechanism, existing frozen support for fixed broadband is being phased down, with frozen support for providers that did not win long-term support in

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<sup>87</sup> Compare Liberty Comments at 12 (voicing support for requiring support recipients to report unauthorized network access), with PRTC Comments at 18-19 (stating that a separate proceeding to determine reporting requirements for unauthorized access would be appropriate).

<sup>88</sup> We encourage support recipients to report instances of unauthorized access to CISA pursuant to the NIST Computer Security Incident Handling Guide. See CISA, Report to CISA, <https://www.cisa.gov/report> (last visited Apr. 18, 2023); NISA, Computer Security Incident Handling Guide, NIST Special Publication 800-61 Revision 2 (2012) <https://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-61r2.pdf>. We also encourage support recipients to inform the Commission when they have reported instances of unauthorized access to CISA.

<sup>89</sup> PRTC Comments at 18.

<sup>90</sup> *Transitional Support FNPRM* at 8, para. 20.

<sup>91</sup> See T-Mobile Comments at 7; PRTC Comments at 20.

<sup>92</sup> See *supra* Section II.B.

an area currently at 1/3 of their legacy support<sup>93</sup> and scheduled to end by May 2023. Providers authorized for Stage 2 fixed support have their first mandatory service milestone on December 31, 2024.<sup>94</sup>

38. In light of the 19-month gap between the end of existing frozen support for incumbent providers that did not win long-term support in an area and the first deployment obligation for the winners of the competitive proposal process, as well as the ongoing threat of natural disasters, we proposed in the *Transitional Support FNPRM* to freeze the provision of phase-down support at the current 1/3 support level until December 31, 2025, and we sought comment on alternative support schedules and appropriate uses of phase-down support.<sup>95</sup>

39. We adopt our proposal to extend phase-down support frozen at 1/3 of the current support level until December 31, 2025, to avoid leaving incumbent providers that did not win support in an area with insufficient resources to maintain their existing networks until the long-term support recipients have made substantial progress deploying their networks. Upon examination of the record, we believe that this extension most effectively addresses our concerns about the resilience of existing networks while also protecting limited universal service resources.

40. We agree with commenters who note the potential for disruption for residents of the Territories, as the long-term support recipients may not be able to broadly provide high-speed service until their networks are more fully deployed,<sup>96</sup> and this could leave residents of the Territories without service.<sup>97</sup> Moreover, consistent storm activity requires that the Territories' networks are resilient and capable of providing service to residents in the event of natural disasters. As commenters note, while significant progress has been made in restoring and hardening the Territories' existing networks, more work remains to be done.<sup>98</sup>

41. We reject the arguments of legacy providers and the PRTRB that frozen support should be extended beyond the 31-month period we provide.<sup>99</sup> Viya, which supports an extension of frozen support until December 31, 2027, states that when the phase-down ends, it will relinquish its Eligible Telecommunications Carrier (ETC) designation, and many existing consumers could be left without reliable high-speed internet service until Broadband VI fully fulfills its Stage 2 commitments.<sup>100</sup> PRTC, which supports the same extension, argues that terminating frozen support when the competitive support recipient has deployed to 60% of the population of a given area would leave the other 40% of that population at risk of losing access to reliable communications services.<sup>101</sup>

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<sup>93</sup> As the Commission provided in the *2019 PR USVI Order*, the amount of frozen support for a geographic area is based on the percentage of fixed Stage 2 support the model allocated to the area because it ties frozen support to an estimate of the relative cost of serving different geographic areas. *2019 PR USVI Order*, 34 FCC Rcd at 9156, para. 87.

<sup>94</sup> 47 CFR § 54.1506.

<sup>95</sup> *Transitional Support FNPRM* at 9-11, paras. 21-26.

<sup>96</sup> Viya Comments at 7.

<sup>97</sup> See, e.g., PRTC Comments at 21-22.

<sup>98</sup> PRTRB Comments at 2. See also Letter from Edgar Class, Counsel for Puerto Rico Telephone Company, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 18-143, 10-90 (filed Feb. 22, 2023).

<sup>99</sup> See, e.g., Viya Comments at 8-10; PRTC Comments at 20-22. See also Letter from Edgar Class, Counsel for PRTC, to Marlene Dortch, Secretary, FCC, WC Docket No. 18-143 et al., at 1-2 (filed Apr. 7, 2023); Letter from Edgar Class, Counsel for PRTC, to Marlene Dortch, Secretary, FCC, WC Docket No. 18-143 et al., at 1-2 (filed Apr. 14, 2023) (PRTC April 14 *Ex Parte*).

<sup>100</sup> Viya Comments at 8.

<sup>101</sup> PRTC Comments at 21-22.

42. The PRTRB argues that extending support is necessary to ensure that no areas are left without service during the transition to competitive support<sup>102</sup> and asserts that, while it is mindful of our commitment to efficiently target support, the priority during this transition period should be on ensuring service for the most people.<sup>103</sup> Additionally, the PRTRB argues that even if a competitive provider met its deployment obligation before the deadline, phase-down support should not be terminated before its scheduled end date, as the existing physical infrastructure of the incumbent LEC may not have fully depreciated.<sup>104</sup>

43. We are unpersuaded that these arguments justify an extension of phase-down support until December 31, 2027, for several reasons. Notably, PRTC has stated that it will continue to offer service in the areas where it did not win competitive support even after its phase-down support has ended.<sup>105</sup> Viya, which serves 98% of the locations in the U.S. Virgin Islands, does not explain why our proposal to provide an additional 31 months of phase-down support to harden its existing network<sup>106</sup> would be insufficient to ensure long-term network resiliency and redundancy and result in the decision to discontinue offering service to existing locations within its already-existing network. Indeed, it makes little sense to immediately cease providing service on a network which will have been hardened with several years of Universal Service Fund (USF) support. While Viya again raises the possibility of relinquishing its ETC designation, as the Commission previously noted, “Viya remains subject to section 214 discontinuance approval obligations and to carrier of last resort requirements which collectively guard against an abrupt loss of service.”<sup>107</sup> Given the record before us, we are not convinced that customers in Puerto Rico and the U.S. Virgin Islands will face a significant risk of losing service once phase-down support ends.<sup>108</sup> Because it would make sense for the incumbent carriers to continue offering service in the areas where they previously received phase-down support and continue to invest in their existing networks, we believe that it would also make sense for them to continue to ensure that they have a sufficiently resilient network in those same areas in order to continue offering voice and broadband service even after phase-down support ends.

44. We also reject the arguments of Liberty, which won competitive support in both Puerto Rico (as Liberty Communications PR) and the U.S. Virgin Islands (as Broadband VI)<sup>109</sup> that phase-down support should not be extended at all beyond the current May 2023 deadline. Liberty argues that extending phase-down support would be wasteful and that it would be unfair to Liberty, which relied

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<sup>102</sup> PRTRB Comments at 7-8.

<sup>103</sup> *Id.* at 8.

<sup>104</sup> *Id.* at 8.

<sup>105</sup> PRTC Reply at 4.

<sup>106</sup> *See infra* para. 48.

<sup>107</sup> *2019 PR USVI Order*, 34 FCC Rcd at 9158, para. 90 (internal citations omitted).

<sup>108</sup> For these same reasons, we disagree that extending phase-down support until December 31, 2025, would have a negative impact on digital equity. *See Viya Comments* at 2. We also disagree with the PRTRB’s argument that phase-down support should continue even after 100% deployment occurs. PRTRB Comments at 8-9. To continue phase-down support after 100% deployment of a resilient, storm-hardened network would be an inefficient use of Universal Service Fund resources, as it would fund duplicative networks in the same area, without regard for balancing the necessary provision of support and our goal of efficient Fund administration. Likewise, we reject PRTC’s argument that we should extend the phasedown to the end of 2027. PRTC April 14 *Ex Parte* at 1-2. Even though the use of phase-down support will be limited to increasing resiliency and redundancy of incumbent networks, *see infra* paras. 48-49, we still do not believe that extending phase-down support past the 60 percent deployment milestone for Stage 2 strikes the proper balance between providing necessary support and acting as a responsible steward of limited USF funding.

<sup>109</sup> *See Fixed Authorization Notices*.

upon the scheduled phase-out of frozen support when it calculated its competitive bids.<sup>110</sup> Liberty also states that extending phase-down support would provide the incumbent LECs that did not win support in a given area with significant funding without any buildout requirements, which would put Liberty at a competitive disadvantage.<sup>111</sup> Additionally, Liberty argues that if phase-down support is extended, Liberty should receive support in the areas where it provides service but did not win competitive support, even though it is not the incumbent and has not previously received frozen high-cost support in those areas.<sup>112</sup> Finally, Liberty argues that if the Commission does extend phase-down support, that support should terminate once the competitive support winner has met its 60% deployment obligation, even if that occurs before December 31, 2025.<sup>113</sup> As discussed above, while we agree that extending support beyond a *necessary* phase-down period would be wasteful, our analysis of the record indicates that the necessary phase-down period is longer than we originally anticipated in the *2019 PR USVI Order*.<sup>114</sup> Hurricanes and other challenges in these insular areas have made it clear that the existing networks in the Territories require further support and an assurance that providers have resources to make their networks resilient and available during future natural disasters while new networks are constructed. Given our rationale here and the record, the current level of Liberty's deployment, while noted, is ultimately of limited consequence to our decision to extend the phase-down support for purposes of more storm-resistant networks.<sup>115</sup>

45. Furthermore, to the extent that Liberty relied on its revenue projections on phase-down support ending in May 2023, it did so despite the Commission's reminder that "pending and future judicial proceedings, as well as certain pending and future proceedings before the Commission—including applications, applications for modification, notices of proposed rulemaking, notices of inquiry, petitions for rulemaking, requests for special temporary authority, waiver requests, petitions to deny, petitions for reconsideration, informal objections, and applications for review—may relate to or affect licensees or applicants for support in the Stage 2 Competition."<sup>116</sup> Because the Commission put Liberty on notice of the possibility that the phase-down support schedule could be modified when it made its proposals, we are unpersuaded that an extension of the support schedule causes unfair harm.

46. Liberty also asserts that extending phase-down support would result in "competitive harm" because it provides the incumbent LECs that did not win support with more money than Liberty will receive as the competitive support winner.<sup>117</sup> We disagree. As discussed above,<sup>118</sup> Liberty was on notice that modification of the phase-down support schedule was a possibility. Also as detailed below,<sup>119</sup>

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<sup>110</sup> Liberty Comments at 13-14.

<sup>111</sup> Liberty Comments at 14-15; Liberty *Ex Parte* at 4-5. In its *ex parte*, Liberty argues that the phase-down frozen support awarded to PRTC could be used throughout PRTC's service area and not exclusively in the areas where Liberty won competitive support. As we discuss in more detail below, *see infra* paras. 48-49, we limit the use of phase-down support to increasing resiliency and redundancy of incumbent networks. To the extent that this support promotes hardening of networks throughout Puerto Rico as well as in those areas where the incumbent did not win competitive support, we find this is in the public interest.

<sup>112</sup> Liberty Comments at 15-16.

<sup>113</sup> Liberty Comments at 16.

<sup>114</sup> *2019 PR USVI Order*, 34 FCC Rcd at 9155, para. 87.

<sup>115</sup> See Letter from Robert L. Hoegle, Counsel to Liberty Communications of Puerto Rico LLC, to Suzanne Yelen, Associate Bureau Chief, Wireline Competition Bureau, FCC, WC Docket No. 18-143 (Feb. 2, 2023).

<sup>116</sup> *Procedures Public Notice*, 35 FCC Rcd at 239, para. 70.

<sup>117</sup> Liberty Comments at 15.

<sup>118</sup> See *supra* para. 45.

<sup>119</sup> See *infra* para. 48.



the phase-down support may only be used on network resiliency and maintenance, and may not be used to deploy service to new areas.<sup>120</sup> To the extent this additional high-cost funding would then allow incumbent LECs to reallocate resources for deployment,<sup>121</sup> we believe that ensuring there are resources for increased hardening and resiliency of existing networks during the construction of new networks outweighs other concerns.

47. We also disagree with Liberty that if we do extend phase-down support, it should end before December 31, 2025, if the competitive provider meets its 60% deployment obligation before that date.<sup>122</sup> We believe that recipients of phase-down support have a need for certainty and predictability so they can plan how to use that support to harden their existing networks.<sup>123</sup> Ending phase-down support once the competitive provider has met its 60% deployment obligation, which can occur prior to December 31, 2025, could undermine that certainty, as the recipients of phase-down support would not reasonably know in advance when their phase-down support could end.<sup>124</sup> We distinguish this from our adoption of the rule to end transitional mobile support upon the implementation of a long-term mobile support mechanism.<sup>125</sup> Any process for adoption of a long-term mobile funding mechanism will provide carriers with ample notice and transparency for carriers to reasonably plan. Conversely, Liberty's proposal to end phase-down support, which is based on the winning applicant's meeting its internal buildout plan for geographic areas, does not provide the predictability and certainty of a specific end date or substantial advance notice.

48. *Appropriate Uses of Phase-Down Support.* We adopt our proposals to limit the use of phase-down support to resiliency and redundancy measures and to require recipients of phase-down support to at least maintain their current footprint for voice and broadband services.<sup>126</sup> We also adopt our proposal to require recipients of additional phase-down support to maintain their Disaster Preparation and Preparedness Plan.<sup>127</sup>

49. Commenters generally supported our proposal to limit phase-down support to resiliency and redundancy measures and to require recipients of phase-down support to maintain their current footprint for voice and broadband services.<sup>128</sup> Given the importance of services during times of natural disaster and the intended use of the support, we require phase-down support recipients to maintain a Disaster Preparation and Preparedness Plan and report using the Disaster Information Reporting System.<sup>129</sup> Finally, in response to comments,<sup>130</sup> we clarify that phase-down support may be used on

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<sup>120</sup> While Liberty requests to receive support in the areas of Puerto Rico where it provides service but was not awarded Stage 2 support, it provides no basis, for instance the amount of support, for us to weigh this proposal or any other administrative hurdles. *See* Liberty Comments at 15-16.

<sup>121</sup> Liberty Comments at 14.

<sup>122</sup> Liberty Comments at 16.

<sup>123</sup> *Viya Ex Parte* at 2 (stating that support should continue until six months after the 100% deployment milestone of December 31, 2027, but that a "date certain is needed so that Viya can appropriately plan its resiliency and hardening investments").

<sup>124</sup> We expect all high-cost support recipients, including in Puerto Rico and U.S. Virgin Islands, to meet their network deployment commitments on time. However, should Liberty or Broadband VI fail to meet the deadline for its 60% deployment milestone, we may consider whether a request for extending the phase-down period is in the public interest.

<sup>125</sup> *Supra* Section III.A.

<sup>126</sup> *Transitional Support FNPRM* at 10, para. 24.

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

<sup>128</sup> PRTC Comments at 23; Viya Comments at 13.

<sup>129</sup> *See, e.g.*, 47 CFR § 54.1515. We make clear that if an eligible mobile provider or incumbent LEC has not previously submitted a Disaster Preparation and Response Plan to the Bureau and was approved to receive Stage 2

(continued....)

maintenance of existing networks as well as backup power to ensure continuity of voice and broadband service because maintenance of the network backup power inherently aids resiliency.<sup>131</sup>

50. *Oversight and Reporting for Phase-Down Support Recipients.* In order to provide oversight and prevent waste, fraud, and abuse, we adopt our proposal to subject phase-down support recipients to ongoing oversight from the Commission and the Universal Service Administrative Company by adding new requirements.<sup>132</sup> Specifically, we require each phase-down support recipient to “submit a spending plan for its use of phase-down support for redundancy and resiliency measures to the Bureau for approval,” by July 1, 2023,<sup>133</sup> and, at the end of each calendar year, to provide the Commission with a report of how the phase-down support was spent on resiliency and redundancy measures consistent with the Bureau-approved plan,<sup>134</sup> along with a certification pursuant to section 54.313 of the Commission’s rules that the support was used only for authorized purposes.<sup>135</sup> Commenters supported our proposal,<sup>136</sup> and we find that a spending plan will provide an important layer of oversight and help us ensure that the phase-down support is going to its intended purpose.<sup>137</sup> Recognizing the short-term nature of the support but also cognizant of the time that recipients need to plan, we require all phase-down support to be spent by December 31, 2026, which is one year after the end of the support term.<sup>138</sup> Recipients must submit a final spending report by January 31, 2027, and shall return an amount equal to the unused (i.e., not spent consistently with the approved spending plan) amount of support to USAC within 30 days of December 31, 2026. In addition, recipients of phase-down support will continue to be subject to all current obligations associated with the receipt of high-cost support and designation as an ETC.<sup>139</sup>

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mobile or fixed support, an eligible carrier of transitional mobile support or phase-down support must submit such a plan to the Bureau by July 1, 2023. We find it is in the public interest to permit an eligible carrier to receive transitional mobile support or phase-down support prior to the Bureau’s approval of the Disaster Preparation and Response Plan in order to facilitate the seamless hardening of advanced telecommunications networks. Notwithstanding, we expect the Bureau to review the Disaster Preparation and Response Plan as quickly as possible to identify concerns and/or deficiencies for the support recipient to address in order to obtain the Bureau’s approval. Moreover, we retain safeguards of the USF by adopting a rule that the failure to comply with obtaining the Bureau’s approval of the disaster plan or spending plan, or failure to conduct mandatory reporting shall result in the withholding of high-cost support.

<sup>130</sup> See PRTC Comments at 23-24; Viya Comments at 13-14 (requesting this clarification).

<sup>131</sup> Recipients of phase-down support shall certify that such support authorized after May 2023 was used only for resiliency and redundancy measures and maintain their footprint as of June 2023 for voice and broadband services.

<sup>132</sup> *Transitional Support FNPRM* at 10, para. 25.

<sup>133</sup> See *Viya Ex Parte* at 2 (“urg[ing] the Commission to provide support recipients with at least 60 days after the release of an order to prepare the initial submission”).

<sup>134</sup> Cf. 47 CFR § 54.1514(d),(e) (requiring Stage 2 mobile carriers to provide an annual hardening map and narrative identifying network hardening activities, and cost accounting for specific deployments during the prior calendar year). The required spending plans phase-down support recipients submit should be similar to the reports required by 47 CFR § 54.1514(d),(e).

<sup>135</sup> *Transitional Support FNPRM* at 10, para. 25.

<sup>136</sup> See PRTRB Comments at 9; Viya Comments at 10.

<sup>137</sup> At this time we decline to adopt a new, streamlined process for the Bureau to approve spending plans, because we are not convinced that the need for such a new process exists. See *Viya Comments* at 14-15.

<sup>138</sup> See *infra* Appendix A, 47 CFR § 54.1523(c); see also *Viya Ex Parte* at 2 (noting the “permitting and power issues that all providers in the Territory face”).

<sup>139</sup> We note that WorldNet Telecommunications, Inc., a fixed competitive ETC, also currently receives frozen high-cost support in Puerto Rico and will continue to receive phase-down frozen support until December 31, 2025,

(continued....)

#### IV. ORDER ON REVIEW

51. In this Order on Review, we address the Application for Review<sup>140</sup> filed by PRTC seeking review of the Bureau's Public Notice declaring Liberty as the winning applicant in the PR Fund Stage 2 competitive process with respect to certain municipios.<sup>141</sup> For the reasons explained below, we affirm the Bureau's determinations and deny the Application for Review.

##### A. Background

52. In the *2019 PR USVI Order*, the Commission adopted a single-round competitive proposal process to select applicants based on the lowest score for a series of weighted, objective criteria.<sup>142</sup> The Stage 2 competitive process awarded fixed support based on the weighting of price and network performance, including speed, latency, and usage allowance.<sup>143</sup> This process also placed significant weight on resiliency and redundancy to account for the heightened risk of natural disasters in the Territories. Under this competitive process, the Commission directed the Bureau to score applicants for fixed high-cost support using a 270-point scale for price, performance, and network resiliency and redundancy for each geographic area for which an applicant sought support.<sup>144</sup> The Commission directed that the applicant with the lowest combined overall score for each municipio in Puerto Rico would win support for that area.<sup>145</sup>

53. Specifically, the Commission found that using the 270-point scale "relies on objective criteria that are preferable to a more subjective competitive proposal process or negotiated approach because it better implements our policy goals of promoting efficiency, certainty, transparency, and impartiality, and allows us to compare applications using different network technologies and offering differing performance."<sup>146</sup> The 270-point scale was allocated across different objective criteria as follows:

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subject to the same requirements as adopted herein. *2019 PR USVI Order*, 34 FCC Rcd at 9155, para. 87 & n.312; *PR Fixed Authorization Notice*, 36 FCC Rcd at 9920.

<sup>140</sup> Application of PRTC for Review of the Public Notice of the Wireline Competition Bureau Announcing Winners in the Uniendo a Puerto Rico Fund Stage 2 Competitive Process, WC Docket Nos. 18-143, 10-90 (filed Dec. 2, 2020) (Application for Review). PRTC subsequently modified its request for confidentiality as to portions of its Application for Review and refiled a copy of its Application for Review for public inspection on August 20, 2021. Letter from Edgar Class, Counsel for PRTC, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 18-143, 10-90, 14-58 (Aug. 20, 2021) (Amended PRTC Application) available at <https://www.fcc.gov/ecfs/filing/10820800615610>.

<sup>141</sup> *Wireline Competition Bureau Announces Winning Applicants for Uniendo a Puerto Rico Fund Stage 2 Competitive Process*, WC Docket No. 18-143, Public Notice, 35 FCC Rcd 12699, at Attachment A - Stage 2 Winning Proposals Summary (WCB 2020) (*PR Winners' Public Notice*).

<sup>142</sup> *2019 PR USVI Order*, 34 FCC Rcd at 9114-15, para. 11.

<sup>143</sup> *Id.* at 9116, para. 13; *Procedures Public Notice*, 35 FCC Rcd at 220, 252-55, paras. 2, 124-34.

<sup>144</sup> *2019 PR USVI Order*, 34 FCC Rcd at 9117, para. 14; *Procedures Public Notice*, 35 FCC Rcd at 252-55, paras. 124-34.

<sup>145</sup> *2019 PR USVI Order*, 34 FCC Rcd at 9140, para. 52.

<sup>146</sup> *Id.* at 9114-15, para. 11.

Criteria	Assigned Points
Price Per Location	100
Network Performance	90
Network Resilience and Redundancy	80
<b>Total</b>	<b>270</b>

54. The Commission adopted the scoring for the price criteria in order to achieve the most economical solution possible while maintaining quality and resilience.<sup>147</sup> The reserve price established for each municipio represented the maximum amount that an applicant may commit to accept, and a proposal to accept the reserve price would receive the maximum, and least favorable, number of points for the price criteria.<sup>148</sup> To encourage proposals for the best price possible, the Commission provided that one point would be subtracted from an applicant's score for each percentage point its proposal price was below the reserve price.<sup>149</sup>

55. While the Commission afforded price per location the greatest weight, network performance, resiliency, and redundancy were given almost as much importance, such that a proposal with superior performance, resilience, and/or redundancy could prevail over a less-expensive but less-robust and resilient network.<sup>150</sup> Given the unique, insular circumstances in the Territories and the destructive power of natural disasters, the Commission adopted scoring criteria to encourage the deployment of high-performing, storm-hardened networks.<sup>151</sup>

56. To ensure that USF dollars are wisely spent, the Commission specifically considered the benefits of network performance in developing the Stage 2 competitive process.<sup>152</sup> The Commission observed the value to consumers of having access during the 10-year support term to service that exceeds the established minimum network performance requirements when establishing three network speed tiers and allocating scores for each tier "to ensure that customers and service providers in the Territories are not subject to a lesser standard of service than other parts of the country."<sup>153</sup> The Commission provided that "[f]or a proposal to qualify for any tier, the applicant must commit to deploying a network that is fully capable of delivery speeds and usage allowances that meet or exceed . . . the relevant standards to all locations within the geographic area."<sup>154</sup> In this regard, the Commission established three tiers for application scoring based on a specific network performance speed, along with a minimum monthly usage allowance.<sup>155</sup>

<sup>147</sup> *Id.* at 9118, para. 17.

<sup>148</sup> *Id.*

<sup>149</sup> *Id.*

<sup>150</sup> *Id.* at 9116-17, para. 13 ("Thus, while we allocate price the greatest individual weight, combined weights for network performance and resilience/redundancy can outweigh price, to encourage applicants to deploy high-performing, storm-hardened networks."). *See also Procedures Public Notice*, 35 FCC Rcd at 253, para. 125.

<sup>151</sup> *2019 PR USVI Order*, 34 FCC Rcd at 9116-17, para. 13; *Procedures Public Notice*, 35 FCC Rcd at 253, para. 125.

<sup>152</sup> *2019 PR USVI Order*, 34 FCC Rcd at 9121, para. 21.

<sup>153</sup> *Id.* at 9121-22, paras. 22, 23.

<sup>154</sup> *Id.* at 9121, para. 22.

<sup>155</sup> *Id.* at 9123, para. 25.

57. With regard to network resiliency and redundancy, the Commission allocated 80 points, providing up to 60 points for resiliency considerations and up to 20 points for redundancy considerations.<sup>156</sup> The Commission recognized that “resilience involves many factors” and chose to score proposals on “key, objective criteria.”<sup>157</sup> Accordingly, the Commission said proposals should be weighted based on the percentage of network miles that are made up of certain types of network infrastructure. The Commission agreed with many service providers that burying fiber was ideal and created the most resilient networks hardened against natural disasters.<sup>158</sup> Conversely, the Commission concluded that the record demonstrated standard aerial wireline deployment required the most repairs and left networks the most vulnerable to disasters.<sup>159</sup> Accordingly, the Commission designed a scoring preference for burying as much fiber as possible while allowing for other resiliency solutions.<sup>160</sup> A network using only underground fiber received zero points for resiliency, whereas a network using only standard aerial wireline deployment received 60 points. The network redundancy score was calculated based on the percentage of network miles served by alternative network infrastructure or route paths.<sup>161</sup> The Commission applied these weighting considerations as follows:<sup>162</sup>

Resilience and Redundancy Criteria	Specific Resiliency or Redundancy Measure	Possible Points for Specific Measure	Total Possible Criteria Points
Resiliency	Aerial wireline deployment	60	60
	Satellite; fixed wireless end user location connection; microwave backhaul; aerial wireline deployment using high-wind rated composite poles	40-60 sliding scale	
	Underground fiber	0-60 sliding scale	
Redundancy	Backup network/path diversity	0-20 sliding scale	20

58. The Bureau released the *Procedures Public Notice* on February 2, 2020, applying the Commission’s determinations and establishing the application filing procedures.<sup>163</sup> In the public notice, the Bureau specifically stated, consistent with the *2019 PR USVI Order*, that it would accept applications “at one of three performance levels, each with its own minimum download and upload speed.”<sup>164</sup> Using

<sup>156</sup> *2019 PR USVI Order*, 34 FCC Rcd at 9127-30, paras. 30-33; *Procedures Public Notice*, 35 FCC Rcd at 253-54, paras. 132-34.

<sup>157</sup> *2019 PR USVI Order*, 34 FCC Rcd at 9127, para. 30.

<sup>158</sup> *Id.* at 9126-27, para. 29.

<sup>159</sup> *Id.* at 9126-27, para. 29 (“It is clear . . . that aerial transmission lines are not a storm-hardened solution....”).

<sup>160</sup> *Id.* at 9126-27, para. 29.

<sup>161</sup> *Id.* at 9128-29, para. 32.

<sup>162</sup> *Id.* at 9130, para. 33.

<sup>163</sup> See generally *Procedures Public Notice*.

<sup>164</sup> *Procedures Public Notice*, 35 FCC Rcd at 222, para. 8, Table.

FCC Form 5634 Schedule B,<sup>165</sup> applicants provided information regarding its proposed price, network performance, including speed tier, usage allowance, latency, and resiliency and redundancy for each area that it proposed to provide service.<sup>166</sup>

59. The Bureau received applications from five entities, including PRTC and Liberty, for support in Puerto Rico.<sup>167</sup> Based on application information from FCC Form 5634 Schedule B, the Bureau calculated each proposal's overall score for the criteria established by the Commission. The Bureau determined the price criteria scores based on the proposal price commitment submitted in FCC Form 5634 Schedule B, subtracting one point from 100 possible points for each percentage point below the reserve price.<sup>168</sup> For network performance, an applicant received "point reductions only by meeting specific [network] performance metrics" and was "assign[ed] zero points only if an applicant's proposal meets or exceeds speeds of 1 Gbps/500 Mbps[.]"<sup>169</sup> With regard to resiliency, the Bureau calculated points ranging from zero points, which is most favorable score, to 60 points.<sup>170</sup> In this regard, an applicant submitted the total network miles of its proposals within a specific municipio, as well as the total network miles within the same municipio, that consist of buried fiber, aerial fiber using standard poles, aerial fiber using composite high-wind rated poles, and fixed wireless technology.<sup>171</sup> The Bureau scored each proposal's network resilience based on the percentage of these technologies, as measured by network miles that comprise the entire network within the municipio.<sup>172</sup> The Bureau also scored each proposal's redundancy on a sliding scale from zero to 20 points based on the amount of network miles within the municipio that included a backup network, path diversity, or both.<sup>173</sup> On November 2, 2020, after reviewing and scoring the applications, the Bureau announced that PRTC was the winning applicant in 35 municipios and Liberty was the winning applicant in 43 municipios.<sup>174</sup>

60. *Application for Review.* On December 2, 2020, PRTC filed its Application for Review seeking review of the Bureau's determination that Liberty won 11 specific municipios.<sup>175</sup> PRTC alleges the Bureau erred in determining the winning proposal in two groups of municipios: (1) three municipios where PRTC proposed 100% fiber builds at lower prices than Liberty ("GPON Municipios"); and (2) eight municipios where PRTC proposed fixed-wireless and fiber builds at lower prices than Liberty

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<sup>165</sup> The Bureau released the FCC Form 5634 application form, application instructions, and the FCC Form 5634 Schedule B Microsoft Excel Template as attachments to the public notice announcing the Stage 2 competitive process filing window. *Wireline Competition Bureau Announces Application Window for Stage 2 of The Uniendo a Puerto Rico Fund and the Connect USVI Fund*, WC Docket No. 18-143, Public Notice, 35 FCC Rcd 8254 (WCB 2020).

<sup>166</sup> *Procedures Public Notice*, 35 FCC Rcd at 252, 253, paras. 124, 128; FCC Form 5634 Application Instructions at 4, para. 29.

<sup>167</sup> *Wireline Competition Bureau Announces Applications Submitted to Participate in Uniendo a Puerto Rico Fund and Connect USVI Fund Fixed Competitive Proposal Process*, WC Docket No. 18-143, Public Notice, 35 FCC Rcd 10341, 10342 (WCB 2020).

<sup>168</sup> *2019 PR USVI Order*, 34 FCC Rcd at 9118, para. 17; *see also Procedures Public Notice*, 35 FCC Rcd at 252-253, para. 127.

<sup>169</sup> *Procedures Public Notice*, 35 FCC Rcd at 253, para. 130.

<sup>170</sup> *Id.* at 254, paras. 132-34.

<sup>171</sup> *Id.* at 254, para. 133.

<sup>172</sup> *Procedures Public Notice*, 35 FCC Rcd at 254, para. 133; *see also 2019 PR USVI Order*, 34 FCC Rcd at 9128, para. 31 (explaining the calculation of resiliency score where an applicant uses a mix of outside plant).

<sup>173</sup> *Procedures Public Notice*, 35 FCC Rcd at 254, para. 134.

<sup>174</sup> *PR Winners' Public Notice*, at Attachment A.

<sup>175</sup> *See generally* Application for Review.

(“Hybrid Municipios”).<sup>176</sup> In the GPON Municipios, PRTC argues that the Bureau erred in selecting Liberty as the winner because PRTC’s price proposals were substantially lower than those submitted in Liberty’s winning proposal;<sup>177</sup> PRTC proposed to deploy fiber to all locations;<sup>178</sup> and PRTC proposed a 100% redundant network in these municipios.<sup>179</sup> Although acknowledging that it proposed a mix of buried and aerial fiber in the GPON Municipios, PRTC argues that “[t]ogether with [its] significant advantage in the price category—which is the most heavily weighted factor—and its zero score in the network performance category, the Bureau’s selection of Liberty as the winning applicant in the GPON Municipios conflicts with statute and established Commission policy and is predicated on an erroneous finding as to a material question of fact.”<sup>180</sup> Moreover, PRTC claims that “[g]iven [the Commission’s] statutory obligation to act as a responsible steward of the USF and its policy objective in this proceeding, the difference in the price proposals for the GPON Municipios is so dramatic that appropriate action by the Commission is warranted.”<sup>181</sup>

61. Regarding the Hybrid Municipios, PRTC similarly alleges that the Bureau erred in its selection of Liberty as the winning applicant. PRTC again argues that because its price proposals were substantially lower than the bids submitted by Liberty, “the Bureau’s selection of Liberty as the winning applicant conflicts with the statute and established Commission policy and is predicated on an erroneous finding as to a material question of fact” based on the additional costs to the PR Fund over the 10-year term.<sup>182</sup> In addition, despite proposing to deploy fixed wireless technology in Hybrid Municipios, PRTC also argues that the Bureau incorrectly scored the network performance by requiring it to select a single tier for network performance in its proposals.<sup>183</sup> While conceding that “[e]ven if Liberty performed better than PRTC in the network resilience category,” PRTC suggests the Bureau erred because “PRTC should still have received zero points in the redundancy/path diversity category due to its substantial redundancy and back-up power capabilities[.]”<sup>184</sup>

62. At the time, PRTC sought confidential treatment as to the entirety of its Application for Review, citing the Commission’s prohibited communications rule in effect for the competitive process<sup>185</sup> and “confidential and commercially sensitive information that falls within Exemption 4 of the Freedom of Information Act.”<sup>186</sup> On August 20, 2021, following the conclusion of the competitive process and the authorization of support to winning applicants in Puerto Rico, which ended the application of the prohibited communications rule, PRTC revised its request for confidential treatment and resubmitted its Application for Review in partially unredacted form.<sup>187</sup> Nevertheless, PRTC maintained that certain

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<sup>176</sup> Application for Review at 2-3.

<sup>177</sup> Application for Review at 5-7.

<sup>178</sup> Application for Review at 7.

<sup>179</sup> Application for Review at 7-9.

<sup>180</sup> Application for Review at 8-9.

<sup>181</sup> Application for Review at 6-7.

<sup>182</sup> Application for Review at 10-11.

<sup>183</sup> Application for Review at 11-12.

<sup>184</sup> Application for Review at 12-13.

<sup>185</sup> *2019 PR USVI Order*, 34 FCC Rcd at 9133-34, para. 39; *Procedures Public Notice*, 35 FCC Rcd at 243, para. 87.

<sup>186</sup> Letter from Edgar Class, Counsel for PRTC, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 18-143, 10-90, 14-58, at 1-2 (filed Dec. 2, 2020).

<sup>187</sup> Letter from Edgar Class, Counsel for PRTC, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 18-143, 10-90, 14-58 (Aug. 20, 2021) (Amended PRTC Application) available at <https://www.fcc.gov/ecfs/filing/10820800615610>

proposal information in its Application for Review was commercially sensitive and should remain confidential.<sup>188</sup>

63. On August 27, 2021, the Bureau sought comment on the Application for Review and adopted a Protective Order to allow interested parties access to confidential information.<sup>189</sup> The Bureau noted that “[c]ertain application information submitted by the parties as part of the Stage 2 competitive process may be relevant and material to the issues raised and constitute the record on which the Commission must evaluate PRTC’s Application for Review.”<sup>190</sup> The Bureau announced to the parties and stakeholders the process necessary to obtain access to highly confidential and confidential information for this proceeding and directed them to the *Protective Order* concurrently adopted by the Bureau.<sup>191</sup> In the *Protective Order*, the Bureau provided that any person seeking access to confidential information for this proceeding “shall sign and date the Acknowledgment agreeing to be bound by the terms and conditions of this *Protective Order*, and file the Acknowledgment with the Commission.”<sup>192</sup> The *Protective Order* defined “Highly Confidential Information” to include “[i]nformation submitted in connection with the FCC Form 5634 that provides detailed documentation regarding the party’s Bringing Puerto Rico Together Stage 2 fixed application, including but not limited to the network plan, technology description and system design . . . [and] both information submitted with Form 5634 and subsequent submissions in connection with the original application.”<sup>193</sup>

64. In response to the *Protective Order*, counsel for Liberty submitted the Acknowledgment of Confidentiality to the Commission on August 31, 2021.<sup>194</sup> Liberty timely filed an opposition to the Application for Review on September 13, 2021.<sup>195</sup> First, Liberty argued that PRTC’s proposals with the lowest prices do not guarantee its selection as the winning applicant for the challenged areas because that ignores the Commission’s balance of other policy objectives, namely deployment of resilient and redundant networks, reflected in the overall proposal framework and scores.<sup>196</sup> Second, Liberty argued that the Bureau did not err in implementing the Commission’s framework provided by the *2019 PR USVI Order* to assign points based on three network performance tiers for the Hybrid Municipios.<sup>197</sup> Moreover, to the extent PRTC wished to challenge those policy decisions, Liberty argued such challenges were time barred.<sup>198</sup>

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<sup>188</sup> Amended PRTC Application; Letter from Edgar Class, Counsel for PRTC, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 18-143, 10-90 (filed Aug. 20, 2021) (maintaining request for confidentiality of “discreet information concerning PRTC’s price proposals for eleven municipios . . . , as well as certain technical information about PRTC’s island-wide network”).

<sup>189</sup> *Request for Comment and Procedures for Obtaining Confidential Stage 2 Information Related to Application for Review by Puerto Rico Telephone Company*, WC Docket No. 18-143, Public Notice, 36 FCC Rcd 13173 (WCB 2021) (*Comment Request Notice*).

<sup>190</sup> *Comment Request Notice*, 36 FCC Rcd at 13173.

<sup>191</sup> *Id.* at 13173-74.

<sup>192</sup> *The Uniendo a Puerto Rico Fund and the Connect USVI Fund*, WC Docket No. 18-143, Protective Order, 36 FCC Rcd 13175, 13178-9, para. 7 (WCB 2021) (*Protective Order*).

<sup>193</sup> *Protective Order* at Appendix A.

<sup>194</sup> Letter from Daniele Frappier, Counsel for Liberty, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 18-143, 10-90 (Aug. 31, 2021) (Liberty Confidentiality Acknowledgment).

<sup>195</sup> Opposition to Puerto Rico Telephone Company, Inc.’s Application for Review by Liberty Communications of Puerto Rico LLC, WC Docket Nos. 18-143, 10-90 (filed Sept. 13, 2021) (Liberty Opposition).

<sup>196</sup> Liberty Opposition at 2-3, 5-6.

<sup>197</sup> Liberty Opposition at 6-8.

<sup>198</sup> Liberty Opposition at 8-9.



65. The record in this proceeding reflects that counsel for PRTC did not sign and submit the Acknowledgement of Confidentiality in response to the Bureau's *Protective Order*. Nonetheless, on September 23, 2021, PRTC filed its reply to Liberty's opposition, maintaining the argument that the Bureau incorrectly announced Liberty as the winning applicant of eleven specific municipios.<sup>199</sup> In its reply, PRTC argued that it raised material questions of fact regarding the selection of Liberty as the winning applicant and that the Bureau failed to disclose sufficient application information from which PRTC may determine whether Liberty was the winning applicant of the challenged municipios.<sup>200</sup> PRTC further argued that the Bureau should release additional application information submitted by Liberty regarding network performance, latency, resiliency and redundancy submitted as part of Form 5634, and its failure to release such information violated the Commission's policy objective to act as a responsible steward of the Universal Service Fund.<sup>201</sup> With regard to its Hybrid Municipios, PRTC again argued that it must receive a more favorable score for network performance because the Commission did not provide in the *2019 PR USVI Order* that an applicant would only receive its score based on the slower network speeds deployed in an area.<sup>202</sup> For both its Application for Review and its reply, PRTC acknowledged that its arguments are based on its knowledge of only its own proposals and that it therefore "believed that the Bureau erred in determining Liberty to be the winning applicant in two groups of municipios."<sup>203</sup>

## B. Discussion

66. Based on the record, we find that the Bureau's determinations were consistent with the directives and policy goals of the *2019 PR USVI Order* and that the Bureau appropriately scored proposals in determining the winning applicants for the GPON and Hybrid Municipios. Finding no error in the scoring of the proposals, we dismiss PRTC's arguments both on the merits and, for certain arguments, as untimely challenges to policy determinations the Commission made in the *2019 PR USVI Order*. For all the reasons discussed herein, we therefore affirm the Bureau's decision and deny the Application for Review.

67. We reject PRTC's argument that the Bureau erred in determining that Liberty was the winning applicant for the GPON Municipios. With respect to the GPON Municipios, the crux of PRTC's argument is that the Bureau erred because PRTC should have received the lowest overall scores for GPON Municipios due to its "substantially lower" prices, network performance tiers, and redundancy regardless of its less favorable score for resiliency.<sup>204</sup> As the record reflects, PRTC in fact received more favorable scores for its price proposals and zero scores for network performance and redundancy in GPON Municipios.<sup>205</sup> However, as the proposal scores in Appendix B to this Report and Order and Order on Review (supported by the accompanying information) clearly show, PRTC's unfavorable resiliency scores placed it overall behind Liberty in the GPON Municipios.<sup>206</sup> PRTC proposed networks for GPON

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<sup>199</sup> PRTC's Reply to Opposition by Liberty Communications of Puerto Rico, LLC, WC Docket Nos. 18-143, 10-90 (filed Sept. 23, 2021) (PRTC Reply).

<sup>200</sup> PRTC Reply at 1-5.

<sup>201</sup> PRTC Reply at 5.

<sup>202</sup> PRTC Reply at 8-10.

<sup>203</sup> PRTC Reply at 6; Application for Review at 6.

<sup>204</sup> Application for Review at 3 ("While the Bureau also must score the applications in two non-price categories, the difference in the price proposals is so dramatic to call into serious question the appropriateness of the Bureau's decision.").

<sup>205</sup> See *Bringing Puerto Rico Together Fund Stage 2 Proposal Scores*, Public Notice, WC Docket No. 18-143, DA 21-718 (WCB 2021), available at <https://www.fcc.gov/ecfs/filing/10623120554065>.

<sup>206</sup> Application for Review at 8 ("Even assuming Liberty performed better than PRTC in the network resilience category . . . for the GPON Municipios PRTC should still receive zero points in the redundancy/path diversity category.... Together with PRTC's significant advantage in the price category—which is the most heavily weighted

(continued....)

Municipios that relied on aerial fiber, the least favorable measure on the resiliency scale.<sup>207</sup> Reviewing the confidential network information PRTC and Liberty provided in their FCC Form 5634 Schedule B, which is reflected in Appendix B, we find that the Bureau correctly calculated PRTC’s resiliency score based on the adopted scoring methodology that uses the percentage of total network miles based on the proposed resiliency measures.<sup>208</sup> PRTC’s deployment of aerial wire led to unfavorable scores for resiliency and overall for each of the GPON Municipios.<sup>209</sup> As the publicly available scores in Appendix B make clear, PRTC’s scoring advantage on price failed to overcome its scoring disadvantage in the resilience category.<sup>210</sup> We therefore find no error in the Bureau’s determination of Liberty as the winner of the GPON Municipios.

68. To the extent that PRTC is arguing that it should have been the winning applicant based solely on its proposed price and scores for performance and redundancy, it is presenting an untimely challenge to the *2019 PR USVI Order* in which the Commission established the scoring methodology.<sup>211</sup> Nonetheless, we separately and independently reject this argument on the merits. The Commission balanced cost considerations against its “goal . . . to award funding to the carrier that can provide the highest performing and most resilient network possible.”<sup>212</sup> Accordingly, the scoring framework the Commission established gave the most weight to price but also counted performance, resiliency, and redundancy as important criteria. While PRTC correctly asserts that our selection of Liberty’s proposals results in “tens of millions of dollars” in additional costs to the USF, our fiscal stewardship of the PR Fund does not require us to choose the short-term, lowest-cost option in every case. The Commission found the benefits in other criteria of network performance,<sup>213</sup> resiliency, and redundancy<sup>214</sup> were significant and relevant to the public interest value of the USF support provided in the Territories. In particular, “a hardened network can help guard against future restoration costs[.]” and it is in “the public

(Continued from previous page) \_\_\_\_\_

factor—and its zero score in network performance category, the Bureau’s selection of Liberty as the winning applicant in the GPON Municipios conflicts with the statute and established Commission policy and is predicated on an erroneous finding as to a material question of fact.”).

<sup>207</sup> *2019 PR USVI Order*, 34 FCC Rcd at 9124-30, paras. 27-33 (favoring buried fiber and scoring up to 60 points for aerial wireline deployment based on percentage of network miles); *Procedures Public Notice*, 35 FCC Rcd at 254-55, paras. 132-34.

<sup>208</sup> See *infra* Appendix B. In the *2019 PR USVI Order*, the Commission recognized that applicants are likely to use a mix of outside plant types and point reductions in a proposal’s resiliency score will be based on the percentage of miles an applicant proposes to use for a particular solution in a geographic area. *2019 PR USVI Order*, 34 FCC Rcd at 9128, para. 31. The Commission provided the following example: “[I]f a provider intends to bury fiber to 70% of the miles of its network in a geographic area, use a fixed wireless end user connection solution for 20% of the miles of its network in a geographic area, and aerial deployment for 10% of its network in geographic area, we will assign 6 points for aerial (10% of 60), assign 8 points for fixed wireless (20% of 40), and assign no points for buried fiber (70% of 0)—for a total of 14 assigned points for resilience.” We find that the Bureau did just that in correctly calculating the resiliency scores. See *infra* Appendix B. As we discuss in Section IV.A, had PRTC chosen to access confidential information pursuant to the Protective Order, PRTC would have been able to reproduce these scores to verify their accuracy, and its “concerns [could] be put to rest.” PRTC Reply at 8 (“If the winning applicants’ proposals regarding the non-price categories are made available, then PRTC’s concerns can be put to rest.”).

<sup>209</sup> Application for Review at 8 (proposing to serve GPON Municipios using “a mix of buried and aerial fiber”); see *infra* Appendix B.

<sup>210</sup> See *infra* Appendix B.

<sup>211</sup> See 47 CFR § 1.429(d) (providing that petitions for reconsideration of a rulemaking order shall be filed within 30 days of the date of public notice of that order).

<sup>212</sup> *2019 PR USVI Order*, 34 FCC Rcd at 9116-17, para. 13.

<sup>213</sup> *Id.* at 9121, para. 22.

<sup>214</sup> *Id.* at 9124-25, para. 27.

interest to account for the heightened possibility of future natural disasters in the Territories.”<sup>215</sup> PRTC itself illustrated the importance of these criteria during the proceeding, illuminating that the devastating nature of natural disasters in the Territories can, and did, render prior USF spending lost due to the near complete destruction of telecommunications infrastructure.<sup>216</sup> The Commission found that any prudent future funding in the Territories must account for resiliency and redundancy considerations to protect the high-cost support investment against future natural disasters, and we again endorse that decision.<sup>217</sup>

69. For the Hybrid Municipios, PRTC advances the same flawed price argument, asserting that the substantial costs savings of its proposals versus those from Liberty indicate that PRTC should be the winning applicant.<sup>218</sup> For the same reasons, we likewise reject PRTC’s argument that the Bureau erred in determining that Liberty was the winning applicant in the Hybrid Municipios. Our review of the scoring for the Hybrid Municipios reflects that Liberty correctly achieved the lowest overall score based on its proposals submitted in FCC Form 5634 despite PRTC’s competing, lower price proposals, as reflected in Appendix B (and supported by the accompanying information).<sup>219</sup> Notably, PRTC proposed a mix of aerial fiber and fixed wireless infrastructure for the Hybrid Municipios,<sup>220</sup> which negatively impacted its scores for network performance and resiliency.<sup>221</sup> As in the GPON Municipios, Liberty’s advantage on network performance and resiliency simply exceeded any advantage PRTC gained from its lower pricing score. Accordingly, we find that the Bureau did not err in determining Liberty to be the winner in the Hybrid Municipios.

70. We also reject, both on procedural and substantive grounds, PRTC’s apparent argument that the Bureau exceeded its authority in requiring an applicant to select only a single tier of service for each municipio and that this policy unfairly prejudiced PRTC in the network performance scoring for Hybrid Municipios.<sup>222</sup> Specifically, PRTC takes issue with the fact that it was required to select the 100/20 Mbps tier for its Hybrid Municipios, resulting in an additional 25 points for its network performance score, even if only a small percentage of locations were to be served with lower than Gigabit speeds.<sup>223</sup> PRTC argues that this policy decision was not the Bureau’s to make and was inconsistent with the *2019 PR USVI Order*, and unfairly prejudiced its bids.<sup>224</sup>

71. PRTC’s argument amounts to a challenge of the network performance scoring methodology implemented by the Bureau in the *Procedures Public Notice*, which is consistent with the Commission’s direction in the *2019 PR USVI Order*. As such, this challenge is untimely and procedurally barred. Our rules require an application for review of an action on delegated authority to be

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<sup>215</sup> *Id.* at 9125, para. 27.

<sup>216</sup> *Id.* at 9124-25, para. 27 (citing PRTC Comments at 7; PRTC Reply at 14-15).

<sup>217</sup> *2019 PR USVI Order*, 34 FCC Rcd at 9124-25, para. 27.

<sup>218</sup> Application for Review at 9-10 (“As explained above regarding the GPON Municipios, the Bureau’s selection of Liberty as the winning applicant in the Hybrid Municipios conflicts with the statute and established Commission policy and is predicated on erroneous finding as to the material question of fact.”).

<sup>219</sup> Application for Review at Attachment A. For seven of the eight Hybrid Municipios, PRTC proposed lower prices than Liberty, and for the last Hybrid Municipio, PRTC and Liberty proposed the same price. *Id.*

<sup>220</sup> Application for Review at 11.

<sup>221</sup> Application for Review at Attachment A.

<sup>222</sup> Application for Review at 11-12.

<sup>223</sup> Application for Review at 11.

<sup>224</sup> Application for Review at 11.

filed within 30 days of public notice of such action.<sup>225</sup> We therefore reject as untimely PRTC's argument regarding the requirement that it select a single performance tier per municipio.

72. We separately and independently reject PRTC's argument on the merits. As noted above, the Bureau's instruction in the *Procedures Public Notice* that applicants select a single performance tier per municipio was at the Commission's direction. In the *2019 PR USVI Order*, the Commission outlined the scoring parameters for the network performance category.<sup>226</sup> The Commission established three tiers for network speed, two tiers for network latency and allocated points for each.<sup>227</sup> The Commission specifically contemplated that an applicant would select a given tier only if all locations in the municipio received service at that selected tier. Unlike its sliding-scale approach to resiliency and redundancy scoring, the Commission did not describe a scoring process using a sliding scale for network performance or direct the Bureau to score multiple performance tiers within a municipio.<sup>228</sup> Rather, the Commission provided that "[f]or a proposal to qualify for any tier, the applicant must commit to deploying a network that is fully capable of delivering speeds and usage allowances that meet or exceed . . . the relevant standards to *all* locations within a geographic area."<sup>229</sup> Thus, the Commission clearly rejected the use of a sliding scale in the assignment of points for the three tiers of network speed.<sup>230</sup>

73. Pursuant to the Commission's adopted framework, the Bureau stated in the *Procedures Public Notice* that for "each geographic area the applicant seeks support, the applicant specifies the specific speed, usage, and latency in Schedule B of the Application Form."<sup>231</sup> The Bureau explained that an applicant did not have to select the same performance tier in every municipio in which it submitted a proposal but made clear that it would not allow applicants to select multiple performance tiers or use sliding scales when scoring performance tiers in a single municipio as adopted in the *2019 PR USVI Order*.<sup>232</sup> Contrary to PRTC's assertion, the Bureau did not make "a policy decision that should have been left to the Commission to resolve."<sup>233</sup> Rather, it correctly implemented a policy decision made by the Commission in the *2019 PR USVI Order* to require the selection of a single performance tier per municipio. Accordingly, the Bureau properly required PRTC to select the 100/20 Mbps tier for scoring the network performance of Hybrid Municipios because, by PRTC's own admission, between 18.27% and 33.69%, depending on the specific Hybrid Municipio, of the locations within each municipio would not have access to 1 Gbps speeds. We therefore find no error by the Bureau in requiring the selection of a single network performance tier for scoring proposals of the Hybrid Municipios.

74. We further find that this policy decision did not unfairly prejudice PRTC. All applicants faced this requirement and, accordingly, all were subject to the requirement that they select a single performance tier for each municipio. All applicants were required to select the lower applicable

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<sup>225</sup> See 47 CFR § 1.115(d). To the extent PRTC challenges the scoring methodology for network performance the Commission adopted in the *2019 PR USVI Order*, PRTC's argument is similarly untimely. See 47 CFR § 1.429(d).

<sup>226</sup> *2019 PR USVI Order*, 34 FCC Rcd at 9121, para. 21.

<sup>227</sup> *Id.* at 9121, para. 22.

<sup>228</sup> *2019 PR USVI Order*, 34 FCC Rcd at 9123, para. 25, Table 3—Network Performance Scoring. Cf. *2019 PR USVI Order*, 34 FCC Rcd at 9128, 9129, para. 31, Table 5—Network Resilience and Redundancy Scoring ("We recognize that applicants are likely to use a mix of outside plant types, so we award point reductions for resiliency based on the percentage of the miles an applicant proposes to use for a particular solution (e.g., buried fiber or aerial) within the geographic area for which it is submitting an application.").

<sup>229</sup> *2019 PR USVI Order*, 34 FCC Rcd at 9121, para. 22 (emphasis added).

<sup>230</sup> *2019 PR USVI Order*, 34 FCC Rcd at 9123, para. 25, Table 3—Network Performance Scoring.

<sup>231</sup> *Procedures Public Notice*, 35 FCC Rcd at 251, para. 128.

<sup>232</sup> See *Procedures Public Notice*, 35 FCC Rcd at 251-52, paras. 128-30.

<sup>233</sup> Application for Review at 11.

performance tier even if many or most of the subscribers in the municipio would receive higher speeds. It is not unfair or prejudicial to subject the PRTC application to the same requirement other applicants faced.

75. With regard to both the GPON Municipios and Hybrid Municipios, we are likewise unpersuaded by PRTC's argument that the Bureau withheld certain confidential application information that precluded PRTC from validating the Bureau's determination of Liberty as the winning applicant and that, in so doing, the Bureau violated its own procedures and acted against the public interest.<sup>234</sup> Specifically, PRTC argues that the Commission should instruct the Bureau to disclose to non-winning applicants Liberty's proposal information for performance tier, latency, terrestrial network miles, broken down by miles buried, aerial miles using standard and composite poles, fixed wireless, redundancy miles, and the methodology used to determine such information.<sup>235</sup> We reject PRTC's argument and request because the Bureau already did exactly as PRTC requests.

76. First, the Bureau released for public inspection every applicants' scores for price, network performance, latency, resiliency, and redundancy, as well as the overall score of each proposal for all of Puerto Rico, following the authorizations for winning applicants to receive support consistent with the *Procedures Public Notice*.<sup>236</sup> The Bureau's release of the applicants' proposal scores validates the selection of Liberty as the winning applicant of the GPON Municipios and Hybrid Municipios.<sup>237</sup> Second, to the extent that PRTC desired access to other confidential application information in order to "validate the appropriateness of the Bureau's scoring,"<sup>238</sup> the Bureau made such application information available to the parties in this proceeding.<sup>239</sup> On August 27, 2021, the Bureau adopted the *Protective Order* to provide access to PRTC's unredacted Application for Review and FCC Form 5634 Schedule B information from applicants. The *Protective Order* provided the parties and relevant stakeholders with the opportunity to access "Highly Confidential Information," including "[i]nformation submitted in connection with the FCC Form 5634 that provides detailed documentation regarding the party's Bringing Puerto Rico Together Stage 2 fixed application, including but not limited to the network plan, technology description and system design . . . [and] both information submitted with [FCC] Form 5634 and subsequent submissions in connection with the original application."<sup>240</sup> This information includes the confidential application information related to scoring for resiliency and redundancy of the parties' proposals and network mileage information sought by PRTC.<sup>241</sup> PRTC, however, failed, without explanation, to take advantage of the process to gain access to the confidential and highly confidential application information it claims to be necessary. We thus reject PRTC's argument that the Bureau erred

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<sup>234</sup> PRTC Reply at 3-5 ("Only upon release of this [application] information would individual bidders be able to compare their proposals to a winning applicant's and validate the appropriateness of the Bureau's scoring.").

<sup>235</sup> PRTC Reply at 3.

<sup>236</sup> *Bringing Puerto Rico Together Fund Stage 2 Proposal Scores*, Public Notice, WC Docket No. 18-143, DA 21-718 (WCB 2021) available at <https://www.fcc.gov/ecfs/filing/10623120554065>. The Bureau also released non-confidential application information for all applicants, including PRTC and Liberty. PRTC Application available at <https://www.fcc.gov/ecfs/filing/106230600408907>; Liberty Application available at <https://www.fcc.gov/ecfs/filing/106233022704580>.

<sup>237</sup> *2019 PR USVI Order*, 34 FCC Rcd at 9114, para. 11.

<sup>238</sup> PRTC Reply at 3.

<sup>239</sup> *Protective Order* at 4-5, para. 7.

<sup>240</sup> *Protective Order* at Appendix A.

<sup>241</sup> PRTC Reply at 3 (arguing that the Bureau must release "(a) performance tier code; (b) latency tier code; (c) terrestrial network in miles broken down by the number of proposed miles of buried fiber, aerial wireline using standard poles, aerial wireline using composite poles, and fixed wireless; (d) the number of total network miles with redundancy; and (e) the methodology detailing how each of the mileage counts were developed").

in failing to provide access to certain confidential information.<sup>242</sup> Finally, we note that if PRTC had chosen to access the confidential application information available pursuant to the *Protective Order*, PRTC would have found, as we explain above, that the Bureau did not err in calculating the proposal scores for the GPON Municipios and Hybrid Municipios, and in selecting Liberty as the winning applicant of support for those areas. Because the Commission adopted specific evaluation criteria assigned numerical values, the calculation of each participant's score is ministerial and can easily be reproduced with examination of the confidential application information.

77. For the reasons discussed above, we find the Bureau appropriately scored the GPON Municipios and Hybrid Municipios, and reject PRTC's arguments and deny the Application for Review.

## V. PROCEDURAL MATTERS

78. *Paperwork Reduction Act Analysis.* As we noted in the *Transitional Support FNPRM*, the rules that we adopt today specifically apply only to the four existing recipients of Stage 2 mobile support and the three existing recipients of phase-down support for fixed services in Puerto Rico and the USVI.<sup>243</sup> Therefore the reporting and recordkeeping requirements adopted in this Order are imposed on fewer than ten persons and are not subject to the Paperwork Reduction Act.<sup>244</sup>

79. *Final Regulatory Flexibility Certification.* The Regulatory Flexibility Act of 1980, as amended (RFA),<sup>245</sup> 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>246</sup> The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."<sup>247</sup> In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.<sup>248</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>249</sup>

80. This Report and Order and Order on Review provides transitional support for mobile providers in Puerto Rico and the U.S. Virgin Islands, and it extends the provision of phase-down support for fixed voice and broadband providers in the same areas. The Report and Order and Order on Review makes transitional mobile support available to the mobile providers who already receive Stage 2 support in the Puerto Rico and the U.S. Virgin Islands, and it extends frozen phase-down fixed broadband support to the providers that currently receive it. Four mobile carriers and three fixed providers in Puerto Rico

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<sup>242</sup> See 47 CFR § 1.115(b). As a result of our conclusion discussed above, we dismiss as moot Liberty's Motion for Leave to File Surreply. Motion for Leave to File Surreply by Liberty Communications of Puerto Rico, LLC, WC Docket Nos. 18-143, 10-90 (filed Oct. 4, 2021).

<sup>243</sup> *Transitional Support FNPRM* at 11, para. 27, n.75.

<sup>244</sup> See 44 U.S.C. § 3502(3)(A)(i), (10).

<sup>245</sup> The RFA, see 5 U.S.C. § 601-612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

<sup>246</sup> 5 U.S.C. § 605(b).

<sup>247</sup> 5 U.S.C. § 601(6).

<sup>248</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>249</sup> Small Business Act, 15 U.S.C. § 632.

and the U.S. Virgin Islands currently receive Stage 2 mobile support and phase-down support for fixed services, respectively.<sup>250</sup>

81. These rules will not affect more than 7 providers out of the 1,778 providers currently receiving high-cost support. Accordingly, we anticipate that this Report and Order and Order on Review 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 the requirements of this Report and Order and Order on Review will not have a significant economic impact on a substantial number of small entities.

82. The Commission will send a copy of the Order, including a copy of this Final Regulatory Flexibility Certification, in a report to Congress pursuant to the Congressional Review Act.<sup>251</sup> In addition, the Order and this final certification will be sent to the Chief Counsel for Advocacy of the SBA, and will be published in the Federal Register.<sup>252</sup>

83. *Congressional Review Act.* The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs, that this rule is non-major under the Congressional Review Act, 5 U.S.C. § 804(2). The Commission will send a copy of this Report and Order and Order on Review to Congress and the Government Accountability Office pursuant to 5 U.S.C. § 801(a)(1)(A).

## VI. ORDERING CLAUSES

84. Accordingly, IT IS ORDERED, pursuant to the authority contained in sections 1, 2, 4(i), 214, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 214, 254, 303(r), and 403, sections 1.1 and 1.425 of the Commission's rules, 47 CFR §§ 1.1 and 1.425, that this Report and Order IS ADOPTED.

85. IT IS FURTHER ORDERED that Part 54 of the Commission's rules IS AMENDED as set forth in Appendix A, and that any such rule amendments SHALL BE EFFECTIVE 30 days after publication in the Federal Register.

86. IT IS FURTHER ORDERED, pursuant to sections to sections 1, 4(i), and 5(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), and 155(c), and section 1.115 of the Commission's rules, 47 CFR § 1.115, that this Order on Review IS ADOPTED and, pursuant to section 1.103(a) of the Commission's rules, 47 CFR § 1.103(a), SHALL BE EFFECTIVE upon release.

87. IT IS FURTHER ORDERED, for the reasons stated herein, that the Application for Review filed by Puerto Rico Telephone Company, Inc. d/b/a CLARO IS DISMISSED IN PART as untimely and otherwise DENIED .

88. IT IS FURTHER ORDERED that, for the reasons stated herein, that the Motion for Leave to File Surreply by Liberty Communications of Puerto Rico LLC IS DISMISSED AS MOOT.

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<sup>250</sup> See *Mobile Authorization Notices; Fixed Authorization Notices*.

<sup>251</sup> See 5 U.S.C. § 801(a)(1)(A).

<sup>252</sup> See 5 U.S.C. § 605(b).

89. IT IS FURTHER ORDERED that the Office of the Managing Director, Performance Evaluation and Records Management, SHALL SEND a copy of this Order and Order on Review to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. § 801(a)(1)(A).

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

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary



**APPENDIX A****Final Rules**

For the reasons set forth above, Part 54 of Title 47 of the Code of Federal Regulations is amended as follows:

**PART 54 – UNIVERSAL SERVICE**

1. Authority for part 54 continues to read as follows:

AUTHORITY: 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 254, 303(r), 403, and 1302 unless otherwise noted.

**SUBPART D – UNIVERSAL SERVICE SUPPORT FOR HIGH COST AREAS**

2. Amend section 54.313 by revising paragraphs (c), (c)(4) and (o), adding and reserving paragraph (p) and adding paragraph (q) to read as follows:

**§ 54.313 Annual reporting requirements for high-cost recipients.**

\* \* \*

(c) In addition to the information and certifications in paragraph (a) of this section, price cap carriers that receive frozen high-cost support pursuant to § 54.312(a) shall provide:

\* \* \*

(4) By July 1, 2016 and in subsequent years. A certification that all frozen-high cost support the company received in the previous year was 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. Recipients of frozen high-cost support under § 54.1504(b), for annual reports due July 1, 2024, 2025, and 2026, shall certify that such support received after June 1, 2023 was used for resiliency and redundancy measures and to maintain their network footprint for voice and broadband services as of June 1, 2023.

\* \* \*

(o) Recipients of Uniendo a Puerto Rico Fund or Connect USVI Fund Stage 2 mobile support and recipients of transitional support under section 54.1516 shall certify that they are in compliance with all requirements in this part for receipt of such support to continue.

(p) [Reserved]

(q) Recipients of transitional support under § 54.1516, as part of either the Uniendo a Puerto Rico Fund or Connect USVI Fund shall certify that such support was not used for costs that are (or will be) reimbursed by other sources of support, including Federal or local government aid or insurance reimbursements; and that support was not used for other purposes, such as the retirement of company debt unrelated to eligible expenditures, or other expenses not directly related to network restoration, hardening, and expansion consistent with the framework of the Uniendo a Puerto Rico Fund or Connect USVI Fund, respectively. Recipients of transitional support under § 54.1516 shall certify that they have conducted an annual review of the documentation required by § 54.1515(a) through (c) or § 54.1524, respectively, to determine the need for and to implement changes or revisions to disaster preparation and recovery documentation.

3. Amend section 54.1504 by revising the section title, revising paragraph (b) to read as follows:

**§ 54.1504 Term of Stage 2 fixed support, phase-down of legacy fixed support, and reporting obligations for phase-down support recipient.**

\* \* \*

(b) *Phase-down of legacy support.* Stage 2 of the fixed Uniendo a Puerto Rico Fund and of the fixed Connect USVI Fund shall replace the legacy frozen high-cost support for the Territories. Beginning on a date determined by the Wireline Competition Bureau and announced by public notice following authorization of a winning application, frozen support recipient carriers will receive 2/3 frozen fixed support amortized for the first 12 months following the date announced by public notice; and 1/3 frozen fixed support amortized over the second 12-month period. Beginning June 1, 2023, legacy frozen support recipient carriers that continue receiving phase-down legacy support for use in accordance with applicable rules shall be authorized to continue to receive 1/3 frozen fixed support for the geographic areas in which it was not selected as the winning applicant of the Stage 2 competitive process. The frozen support recipient carriers shall receive a monthly support amount equal to the amortized monthly 1/3 frozen fixed support amount until December 31, 2025, and zero frozen support thereafter.

4. Add the following sections to Subpart O to part 54 to read as follows:

**Subpart O—Uniendo a Puerto Rico Fund and Connect USVI Fund**

**Sec.**

\* \* \*

54.1516 Uniendo a Puerto Rico Fund and the Connect USVI Fund—Transitional support for mobile service

54.1517 Transitional support mobile carrier eligibility

54.1518 Appropriate uses of transitional mobile support

54.1519 Geographic area eligible for transitional mobile support

54.1520 Provision of transitional mobile support

54.1521 Transitional mobile support additional annual reporting

54.1522 Security Reporting

54.1523 Spending Plans for Recipients of Legacy Frozen Phase-Down Support

54.1524 Disaster preparation and response measures; Disaster Information Reporting System

\* \* \*

**§ 54.1516 Uniendo a Puerto Rico Fund and the Connect USVI Fund—Transitional support for mobile service.**

(a) *Term of support.* Uniendo a Puerto Rico Fund or the Connect USVI Fund transitional mobile support shall be made available to eligible mobile carriers that elect to make a commitment to their eligible service areas for a term of up to 24 months to begin in the month immediately following the end of the carrier's Stage 2 mobile support. The term of support shall end the earlier of either 24 months following a carrier's authorization to begin receiving transitional support or the authorization of support under a long-

term funding mechanism subsequently adopted by the Commission providing mobile wireless support in the carrier's respective territory.

(b) *Election of support.* Eligible mobile carriers as provided in section 54.1517 shall have a one-time option to elect to receive transitional mobile support from the Uniendo a Puerto Rico Fund and the Connect USVI Fund for the eligible service area. To participate, an eligible carrier must submit an election to participate within 15 days following publication in the Federal Register of the order adopting transitional mobile support of the Uniendo a Puerto Rico Fund and the Connect USVI Fund. Each carrier must submit its election to receive transitional support to the Commission through the Commission's Electronic Comment Filing System as well as by emailing a copy of its election to [ConnectAmerica@fcc.gov](mailto:ConnectAmerica@fcc.gov).

(c) *Support amounts.* An eligible carrier that elects to receive transitional support shall receive a pro rata share of its monthly Stage 2 mobile support as of May 1, 2023. Each eligible carrier may receive 50% of its Stage 2 monthly mobile support amount as of May 1, 2023 in the first 12-month period (months 1-12) of transitional support, and 25% of its current monthly mobile Stage 2 support as if May 1, 2023 in the second 12-month period (months 13-24) of transitional support. However, the provision of monthly transitional support may end prior to the completion of the 24-month term as provided in subsection (a).

(d) *Return of unused support.* Each eligible mobile carrier that elects to receive transitional support from the Uniendo a Puerto Rico Fund or the USVI Connect Fund will receive monthly installments of its pro rata share of mobile support over the support period provided in subsections (a) and (c). A mobile carrier that fails to use all its eligible transitional mobile support pursuant to section 54.1517 within one year of the end of the support term shall return an amount equal to the unused amount of transitional support to the Administrator within 30 days following the end of the term of support under paragraph (a).

#### **§ 54.1517 Transitional support mobile carrier eligibility.**

Facilities-based mobile carriers that are recipients of mobile support from Stage 2 as of May 1, 2023 of the Uniendo a Puerto Rico Fund or the Connect USVI Fund shall be eligible to elect and receive transitional mobile support in the areas where they receive Stage 2 support.

#### **§ 54.1518 Appropriate uses of transitional mobile support.**

Recipients of Uniendo a Puerto Rico and Connect USVI transitional mobile support shall use the support to improve the redundancy and resiliency of facilities for 4G LTE or better technologies to help ensure continuity of service by preventing or withstanding damage from disasters, including the maintenance of backup power systems for such networks.

#### **§ 54.1519 Geographic area eligible for transitional mobile support.**

Uniendo a Puerto Rico Fund and Connect USVI Fund transitional mobile support may be used for all geographic areas of Puerto Rico or of the U.S. Virgin Islands, respectively, within a recipient's designated eligible telecommunications carrier service area.

#### **§ 54.1520 Provision of transitional mobile support.**

A recipient of transitional mobile support shall commit to, at a minimum, maintaining its network coverage area as of June 30, 2023, or 100 percent of its network coverage area prior to Hurricanes Maria and Irma as specified by section 54.1514(a), whichever is greater. The recipient shall also commit to

provide a minimum level of service that meets or exceeds network levels and at reasonably comparable levels to those services and rates available in urban areas as required by section 54.1521(a).

**§ 54.1521 Transitional mobile support additional annual reporting.**

(a) Each recipient of transitional mobile support shall report and certify, no later than thirty (30) days following the end of the calendar year in which it receives such transitional support, that it has met the requisite mobile transmissions supporting voice and data to and from the network meeting or exceeding the following:

- (1) For 4G LTE service, outdoor data transmission rates of at least 10 Mbps download/1 Mbps upload, at least one service plan that includes a data allowance of at least 5 GB that is offered to consumers at a rate that is reasonably comparable to similar service plans offered by mobile wireless providers in urban areas, and latency of 100 milliseconds or less round trip; and
- (2) For 5G-NR service, outdoor data transmission rates of at least 35 Mbps download/3 Mbps upload and a plan offered to consumers at a rate that is reasonably comparable to similar service plans offered by mobile wireless providers in urban areas.

(b) Each recipient of transitional mobile support shall submit no later than thirty (30) days following the end of the calendar year an annual map reporting the network hardening activities undertaken during the prior calendar year. The recipient must submit, along with the map, a detailed narrative description of the network hardening activities identified and of how it made use of the support to facilitate those network hardening activities.

(c) Each report shall be submitted to the Office of the Secretary of the Commission through the Electronic Comment Filing System clearly referencing the appropriate docket for the Uniendo a Puerto Rico Fund and the Connect USVI Fund; the Administrator; and the authority in the U.S. Territory, or Tribal governments, as appropriate. All filings and certifications shall also be submitted to the Bureau at [ConnectAmerica@fcc.gov](mailto:ConnectAmerica@fcc.gov).

(d) Recipients of transitional mobile support have a continuing obligation to maintain the accuracy and completeness of the information provided in their reports. All recipients of transitional mobile support shall provide information about any substantial change that may be of decisional significance regarding their eligibility for transitional support and compliance with Uniendo a Puerto Rico Fund and the Connect USVI Fund requirements as an update to their report submitted to the entities listed in paragraph (c) of this section. Such notification of a substantial change, including any reduction in the network coverage area being served or any failure to comply with any of the transitional support requirements, shall be submitted within ten (10) business days after the reportable event occurs.

(e) In order for a recipient of transitional mobile support to continue to receive transitional mobile support for the second 12-month period, it must submit the reports and certification required by this section by the deadlines set forth above.

**§ 54.1522 Security Reporting**

By August 31, 2023, support recipients under section 54.1516 shall file their first network security report that identifies and explains the network security controls implemented, their effectiveness in fending off cybersecurity attacks, and how those controls are commensurate with established network security best practices and standards or an established risk management framework. By March 31, 2025, support recipients under section 54.1516 shall file their second network security report, covering the time period between August 31, 2023, and March 1, 2025, that identifies and explains the network security controls implemented, their effectiveness in fending off cybersecurity attacks and how those controls are

commensurate with established network security best practices and standards or an established risk management framework.

**§ 54.1523 Spending Plans for Recipients of Legacy Frozen Phase-Down Support**

(a) *Spending plan submissions for phase-down support recipients.* By July 1, 2023, recipients of support under section 54.1504(b) shall submit a spending plan for its use of that support for redundancy, resiliency, and maintenance measures to the Bureau for approval. Phase-down support shall be suspended if a recipient fails to submit a spending plan by the requisite deadline or fails to receive approval from the Bureau. Recipients of support must submit an updated spending plan if the details in their spending plan change.

(b) *Annual reporting requirements for phase-down support recipients.* By January 31, 2024, 2025, and 2026, recipients of support under section 54.1504(b) shall file with the Commission a report of how they spent phase-down support on resiliency and redundancy measures consistent with the approved spending plan approved under paragraph (a).

(c) Recipients of support under section 54.1504(b) that fail to use all such support consistent with the approved spending plan approved under paragraph (a) by December 31, 2026 shall return an amount equal to the unused amount of support to the Administrator within 30 days of December 31, 2026.

(d) By January 31, 2027 recipients of support under section 54.1504(b) shall file with the Commission a final report of how they spent phase-down support on resiliency and redundancy measures consistent with the approved spending plan approved under paragraph (a).

**§ 54.1524 Disaster preparation and response measures; Disaster Information Reporting System.**

(a) Each recipient of support under section 54.1504(b) or 54.1516 shall maintain a Disaster Preparation and Response Plan document approved by the Bureau for Stage 2 of the Uniendo a Puerto Rico Fund or Connect USVI Fund, as applicable, that describes and commits to the methods and procedures that it will use, during the period in which it receives support under section 54.1516 or 54.1504(b), to prepare for and respond to disasters in the Territories, including detailed descriptions of methods and processes to strengthen infrastructure; to ensure network diversity; to ensure backup power; to monitor its network; and to prepare for emergencies. If an eligible recipient has not previously submitted a Disaster Preparation and Response Plan that was approved by the Bureau prior to the authorization to receive fixed or mobile support, as applicable, the eligible recipient must submit a Disaster Preparation and Response Plan for Bureau approval by July 1, 2023. Phase-down support shall be suspended if a recipient fails to submit a Disaster Preparation and Response Plan by the requisite deadline or fails to receive approval from the Bureau.

(b) Each recipient of support under section 54.1504(b) or 54.1516 shall maintain the Disaster Preparation and Response Plan approved by the Bureau for Stage 2 of each funding mechanism that completely and thoroughly address the criteria enumerated in subsection (a). Recipients shall materially comply with the representations in the document and shall amend their Disaster Preparation and Response Plan following any material change(s) to internal processes and responsibilities and provide the updated Disaster Preparation and Response Plan to the Bureau within 10 business days following the material change(s).

(c) Each recipient of support under section 54.1504(b) or 54.1516 shall perform mandatory Disaster Information Reporting System reporting.

(d) A recipient's failure to comply with the requirements of this section may result in the withholding of transitional or phase-down support until the support recipient has cured deficiencies identified by the Bureau.

## APPENDIX B Bringing Puerto Rico Together Fund, Scored Applications

BRINGING PUERTO RICO TOGETHER FUND  
SCORED APPLICATIONS

**GPON Municipios**

Municipio	Applicant	Final score	Price score	Performance score	Latency score	Resiliency score	Redundancy score	Proposal price	Performance tier	Latency tier	Buried fiber	Aerial std_poles	Aerial comp_poles	Fixed wireless	Total manual	Total automatic	Miles with backup	Locations satellite	Locations backup
Barranquitas	Liberty_FRN 0013778857_Schedule B_090320	59.00	53.00	0.00	0.00	6.00	0.00	531,383.57	1	1	98.89	10.99	0.00	0.00	109.88	109.88	109.88	0.00	0.00
	PRTC_FRN 0001731470_Schedule B_090320	67.56	15.00	0.00	0.00	52.56	0.00	{{ [REDACTED] }}											
Culebra	Liberty_FRN 0013778857_Schedule B_090320	32.00	26.00	0.00	0.00	6.00	0.00	132,452.53	1	1	26.10	2.90	0.00	0.00	29.00	29.00	29.00	0.00	0.00
	PRTC_FRN 0001731470_Schedule B_090320	33.66	5.00	0.00	0.00	28.66	0.00	{{ [REDACTED] }}											
Rincón	Liberty_FRN 0013778857_Schedule B_090320	72.00	66.00	0.00	0.00	6.00	0.00	224,962.73	1	1	86.00	9.56	0.00	0.00	95.56	95.56	95.56	0.00	0.00
	PRTC_FRN 0001731470_Schedule B_090320	78.00	27.00	0.00	0.00	51.00	0.00	{{ [REDACTED] }}											

**Hybrid Municipios**

Municipio	Applicant	Final score	Price score	Performance score	Latency score	Resiliency score	Redundancy score	Proposal price	Performance tier	Latency tier	Buried fiber	Aerial std_poles	Aerial comp_poles	Fixed wireless	Total manual	Total automatic	Miles with backup	Locations satellite	Locations backup
Arroyo	Liberty_FRN 0013778857_Schedule B_090320	116.41	75.00	0.00	0.00	41.41	0.00	167,645.83	1	1	22.59	50.33	0.00	0.00	72.92	72.92	72.92	0.00	0.00
	PRTC_FRN 0001731470_Schedule B_090320	122.24	40.00	25.00	0.00	40.92	16.31	{{ [REDACTED] }}											
Barceloneta	Liberty_FRN 0013778857_Schedule B_090320	94.25	32.00	25.00	0.00	37.25	0.00	76,307.63	2	1	27.82	45.54	0.00	0.00	73.36	73.36	73.36	0.00	0.00
	PRTC_FRN 0001731470_Schedule B_090320	114.20	32.00	25.00	0.00	42.04	15.16	{{ [REDACTED] }}											
Cidra	Liberty_FRN 0013778857_Schedule B_090320	93.00	87.00	0.00	0.00	6.00	0.00	828,924.59	1	1	235.79	26.20	0.00	0.00	261.99	261.99	261.99	0.00	0.00
	PRTC_FRN 0001731470_Schedule B_090320	109.10	28.00	25.00	0.00	40.25	15.84	{{ [REDACTED] }}											
Guayama	Liberty_FRN 0013778857_Schedule B_090320	91.00	85.00	0.00	0.00	6.00	0.00	663,977.61	1	1	178.30	19.81	0.00	0.00	198.11	198.11	198.11	0.00	0.00
	PRTC_FRN 0001731470_Schedule B_090320	101.29	19.00	25.00	0.00	41.98	15.31	{{ [REDACTED] }}											
Sabana Grande	Liberty_FRN 0013778857_Schedule B_090320	89.00	86.00	0.00	0.00	3.00	0.00	535,005.18	1	1	118.41	6.23	0.00	0.00	124.64	124.64	124.64	0.00	0.00
	PRTC_FRN 0001731470_Schedule B_090320	108.47	24.00	25.00	0.00	43.32	16.15	{{ [REDACTED] }}											
Salinas	Liberty_FRN 0013778857_Schedule B_090320	82.00	76.00	0.00	0.00	6.00	0.00	584,699.11	1	1	158.91	17.66	0.00	0.00	176.57	176.57	176.57	0.00	0.00
	PRTC_FRN 0001731470_Schedule B_090320	107.73	25.00	25.00	0.00	44.89	12.84	{{ [REDACTED] }}											
Santa Isabel	Liberty_FRN 0013778857_Schedule B_090320	88.29	57.00	0.00	0.00	31.29	0.00	255,508.57	1	1	46.20	50.35	0.00	0.00	96.55	96.55	96.55	0.00	0.00
	PRTC_FRN 0001731470_Schedule B_090320	99.73	17.00	25.00	0.00	41.63	16.10	{{ [REDACTED] }}											
Yabucoa	Liberty_FRN 0013778857_Schedule B_090320	96.00	93.00	0.00	0.00	3.00	0.00	792,754.62	1	1	192.31	10.12	0.00	0.00	202.43	202.43	202.43	0.00	0.00
	PRTC_FRN 0001731470_Schedule B_090320	107.78	26.00	25.00	0.00	41.96	14.82	{{ [REDACTED] }}											

**STATEMENT OF  
CHAIRWOMAN JESSICA ROSENWORCEL**

Re: *The Uniendo a Puerto Rico Fund and the Connect USVI Fund*, WC Docket No. 18-143; *Connect America Fund*, WC Docket No. 10-90, Report and Order and Order on Review (April 19, 2023).

Hurricane season will be underway in just a few weeks. The damage these storms can do is now all too familiar because the images—homes torn apart, flooded streets, and downed power lines—linger. I know because I have seen it up close and witnessed first-hand how dangerous weather can harm communications. I saw it when I visited Puerto Rico after Hurricane Maria and again last year after Hurricane Fiona, when I met with officials charged with emergency response, including Governor Pedro Pierluisi and members of the Telecommunications Regulatory Board. What I also saw on this most recent trip was incredible progress with communications networks that were more resilient and restored more quickly after a major weather event than ever before. That’s in large part a result of the Federal Communications Commission’s efforts through the Bringing Puerto Rico Together Fund. For the last three years, this fund and the Connect USVI Fund have provided support to carriers to strengthen networks in the Caribbean region. Today, I am pleased that the agency has determined a way forward for this effort that provides clarity for providers as they continue efforts to harden, restore, and expand communications networks.