

**FEDERAL COMMUNICATIONS
COMMISSION****47 CFR Part 54**

[WC Docket Nos. 18–143, 10–90, 14–58; FCC 19–95]

The Uniendo a Puerto Rico Fund and the Connect America USVI Fund, Connect America Fund, ETC Annual Reports and Certifications

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) takes major steps to promote the deployment of advanced, hardened networks in the Territories by allocating nearly a billion dollars in Federal universal service support in Puerto Rico and the U.S. Virgin Islands.

DATES: Effective December 9, 2019, except for §§ 54.313, 54.316, 54.1503, 54.1505, 54.1508, and 54.1513 through 54.1515. The Commission will publish a document in the **Federal Register** announcing the effective date of those rules.

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SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order (Order) and Order on Reconsideration in WC Docket Nos. 18–143, 10–90, 14–58; FCC 19–95, adopted on September 26, 2019 and released on September 30, 2019. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street SW, Washington, DC 20554 or at the following internet address: <https://docs.fcc.gov/public/attachments/FCC-19-95A1.pdf>.

I. Introduction

1. In the span of a few short weeks in September 2017, Hurricane Irma and then Hurricane Maria caused widespread devastation to Puerto Rico and the U.S. Virgin Islands (together the Territories). The storms produced extensive damage to infrastructure throughout the Territories, damaging or destroying communications networks, and leaving residents without essential lines of communication during and after these dangerous storms. The recovery of communications networks in the Territories has been especially challenging due to their remoteness from the mainland United States and

the higher costs of deployment providers face there. The Commission to date has provided carriers with approximately \$130 million in funding from the Universal Service Fund (USF or Fund) to assist with network restoration, bringing the total high-cost universal service support invested in the Territories since the 2017 hurricanes to more than \$382.4 million.

2. Most carriers now report that service has been completely or substantially restored. But the Commission's work is not done; it knows that hurricanes will hit Puerto Rico and the U.S. Virgin Islands again. So, looking to the future, the Commission must improve and expand broadband networks in the Territories. The Commission's 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.

3. The Commission therefore takes major steps to promote the deployment of advanced, hardened networks in the Territories by allocating nearly a billion dollars in Federal universal service support in Puerto Rico and the U.S. Virgin Islands. For Stage 2 of the Uniendo a Puerto Rico Fund, the Commission allocates more than \$500 million over ten years in fixed broadband support and more than \$250 million over three years in mobile broadband support. The Commission likewise allocates more than \$180 million over ten years and \$4 million over three years for Stage 2 Connect USVI Fund fixed and mobile support, respectively. These funds will facilitate the improvement and expansion of existing fixed and mobile networks in the Territories, and provide for the deployment of new broadband networks, so that those living in Puerto Rico and the U.S. Virgin Islands will have access to and benefit from the same high-speed broadband services that residents of the mainland United States enjoy. Indeed, some of the funds that the Commission authorizes are specifically allocated to facilitate the deployment of 5G, the next generation of wireless connectivity, in the Territories. In short, the steps the Commission takes in the Order, in addition to the private investment made by providers, will help ensure that broadband is deployed on a reasonable and timely basis to the residents of the Territories and that it remains deployed following future storms.

II. Report and Order

4. To ensure the continued expansion and improvement of fixed voice and broadband service in the Territories, the Commission adopts a single-round competitive proposal process for Stage 2 fixed support for the Uniendo a Puerto Rico Fund and Connect USVI Fund. The Commission divides Puerto Rico into 78 geographic areas—one per municipio—and it divides the U.S. Virgin Islands into two geographic areas. The Commission will consider all valid applications for each geographic area and select a winner for each area by applying the same objective scoring criteria for price, network performance, and network resilience and redundancy to each proposal received. The Commission establishes a ten-year support term and make any existing provider of fixed broadband in each Territory, as of June 2018 FCC Form 477 data, eligible to participate in the support mechanism for the respective Territory they serve. Winning applicants will have specific deployment obligations and the Commission adopts two processes for reassessing deployment data to ensure support is spent efficiently. The Commission directs Stage 2 fixed support toward providing quality service throughout the Territories, rather than simply toward restoration of pre-storm networks, to promote efficient deployment of advanced, reliable services to all locations. The Commission also establishes thorough oversight and accountability measures similar to those the Commission has implemented in other recent high-cost proceedings.

5. *Single-Round Competitive Proposal Process.* The Commission adopts a single-round competitive proposal process in which it will consider all applications simultaneously and select applicants based on the lowest score for a series of weighted objective criteria. The Commission establishes performance tiers that applicants must meet, and it gives greater preference to proposals based on how much they exceed the minimum thresholds. The Commission finds several clear benefits to a competitive proposals approach, and it believes this approach is better-suited to Puerto Rico and the U.S. Virgin Islands than alternative mechanisms such as an auction, a multi-round competitive proposal process, or a negotiated approach. The competitive proposal process the Commission adopts is preferable to an auction under the circumstances because of the relatively small pool of possible applicants. At the same time, the Commission finds the single-round

proposal process retains many of the competitive benefits of an auction but can facilitate more prompt funding and deployment as compared with a multi-round proposal or negotiated approach process. Finally, the approach the Commission adopts relies on objective criteria that are preferable to a more subjective competitive proposal process or negotiated approach because it better implements its policy goals of promoting efficiency, certainty, transparency, and impartiality, and allows the Commission to compare applications using different network technologies and offering differing performance. The Commission’s competitive process is comparable to the Connect America Fund (CAF) II auction in that the Commission will award support competitively based on application of objective criteria. The Commission adapts the CAF II auction framework to the particular circumstances of the Territories by adding resiliency and redundancy as criteria to account for the risks the Territories face and by employing a single-round proposal process rather than a multi-round auction in light of the smaller geographic scale and number of participants. Based on the foregoing analysis, the Commission declines to adopt the multi-round or negotiated competitive proposal processes favored by several commenters. The Commission recognizes that it is forgoing the opportunity to negotiate or influence supplementary-round proposals. Nevertheless, this approach will encourage parties to put forward their best commitments in the first instance and promote competition for support. It also will avoid significant delay and limit subjectivity.

6. *Selection Criteria.* Consistent with the Commission’s policy goals for Stage 2 fixed support, it will consider applications based on both cost and proposed performance capabilities. Evaluating cost is an essential part of the Commission’s determination. As with all USF decisions, the Commission seeks to promote access to quality services in the most cost-effective and efficient manner possible. The Commission must be responsible stewards of the Fund to fulfill its commitment to fiscal responsibility and to ensure that funds are targeted efficiently. For example, in the *USF/ICC Transformation Order*, 76 FR 73830, November 29, 2011, the Commission proposed to design a competitive bidding mechanism for price cap areas where the incumbent Eligible Telecommunications Carrier (ETC)

declined to make a state-level commitment, so as to distribute support in a way that “maximizes the extent of robust, scalable broadband service subject to the budget.” This competitive bidding mechanism resulted in important efficiency gains. The eligible locations awarded in the resulting CAF II auction had an initial reserve price of \$5 billion over the next decade; the final price tag to cover these locations, however, is now only \$1.488 billion—saving the Fund over \$3.5 billion. While the competitive process the Commission adopts in the Order differs from the CAF II auction, it expects that allowing multiple providers—including those that have not traditionally received high-cost support—to compete for funding will increase the efficiencies of bringing advanced services to consumers in Puerto Rico and the U.S. Virgin Islands.

7. Accordingly, the Commission will weigh three factors in selecting winning applicants: (1) Price per location; (2) network performance, including speed, latency, and usage allowance; and (3) network resilience and redundancy. Although commenters differ on how to weigh these factors relative to each other and some suggest additional factors, several commenters support the inclusion of these three key factors. The Commission finds it appropriate to give price per location the greatest weight. While the Commission’s goal in this process is to award funding to the carrier that can provide the highest performing and most resilient network possible, the Commission must do so in a fiscally responsible manner. As stewards of the Fund, responsible spending must be the Commission’s primary concern. Although the destruction from the hurricanes contributed to the challenge of accurately determining location counts, the processes the Commission establishes herein provides opportunities to remedy any inaccuracies, and the Commission must make every effort to ensure cost-effective spending. At the same time, the Commission must carefully account for the other important criteria it has identified. Therefore, while the Commission allocates 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. The Commission notes that in contrast to the CAF II auction, where it considered speed, usage allowance, and latency but no other network-specific factors, here the Commission will award

points based on resilience and redundancy to account for the unique challenges the Territories face due to the risk of disasters and their insularity. The Commission gives network performance the second most points because performance will always matter to customers, while resilience and redundancy benefit users only in the event of a natural disaster or other disruption to the network.

8. *Overall Scoring.* Consistent with the factors the Commission has identified, it adopts a 270-point scale, allocated as follows: 100 points for price per location, 90 points for network performance, and 80 points for network resilience and redundancy. For each geographic area for which it seeks support, an applicant will be assigned a specific point value in each category and the applicant with the lowest combined score will win support in that area. This overall scoring table shows how the points will total across all categories. The Commission also adopts the tables in the following for each subcategory, which show how the points will be assigned within each subcategory.

TABLE 1—OVERALL SCORING

Overall scoring	Points
Price Per Location	100
Network Performance	90
Network Resilience and Redundancy	80
Total	270

9. The Commission declines to use deployment timing or status of restoration as weighted factors in scoring proposals in this process. The Commission agrees with commenters that deployment timing is important—indeed all winning providers must complete buildout and service obligations within six years, with interim deployment milestones after three years. And while faster deployment is in the public interest, the Commission concludes that the benefits of accelerating deployment schedules by 1 or 2 years—which cannot be verified at the time support is awarded—in this case does not warrant being awarded a competitive preference in scoring when weighed against the importance of ensuring cost-effective, high-quality, and resilient networks. In particular, network performance, resilience, and hardening provide long-term benefits, in contrast to the shorter-term benefits of an accelerated schedule. Further, the Commission expects that all carriers are independently motivated to build faster

as it will mean receiving revenue more quickly. The Commission also finds that there is reduced risk of failure in establishing a reasonable schedule that all applicants can commit to meet rather than providing an up-front benefit for a shorter timeline that would require withholding support if the carrier did not adhere to the schedule. The Commission specifically rejects Viya’s suggestion that it requires a minimum baseline of 25/3 Mbps deployment to 95 percent of locations in the U.S. Virgin Islands within two years. That timeline deviates sharply from the deployment milestones in CAF II, and Viya has not identified a reason why the Commission should depart from its precedent. Further, that timeline could limit the number of applicants, precluding the U.S. Virgin Islands from receiving the benefits of potential additional competition.

10. Likewise, while the Commission agrees that it is important for carriers to restore their networks quickly following a natural disaster, it finds that assigning preference based on an applicant’s commitment to restore within a certain period following a future disaster—or demonstrated history of swift restoration following a disaster—is unhelpful for deciding how to award support in this instance. Past restoration performance does not necessarily predict future restoration performance, particularly when the nature of a provider’s network will likely change following this process and given that the Commission cannot control for the size and scope of any future disaster. Evaluating how fast or completely a carrier restored its network would also be extremely challenging and is dependent on factors outside of the Commission’s control (e.g., the nature and scope of the disaster, personnel, availability, access, etc.). Having said that, the Commission expects recipients of Stage 2 support, as with all USF support, to be diligent and efficient in restoring their networks following any future natural disaster or outage. To that end, the Commission adopts measures to ensure all applicants have written Disaster Preparation and Response Plans in place to establish processes that can help ensure effective and timely restoration following a disaster.

11. *Price Per Location.* The Commission adopts the scoring for price per location shown in Table 2 as an incentive for participants to achieve the most economical solution possible, without sacrificing quality or resilience. The reserve price is the maximum amount that a proposal may commit to accept, and a commitment to accept the reserve price will receive the most

points for price per location. To encourage applicants to provide the best price possible, the Commission starts with a total of 100 points (for a commitment at the reserve price) and subtract one point for each percentage point below the reserve price to which an applicant commits. Because the Commission calculates the reserve price with reference to the cost to serve the geographic area, this weighting system takes into account the relative cost to serve different municipalities or islands. Although Hughes suggested a cap at 40% or greater below reserve, the Commission’s allocation method encourages applicants to reveal their actual price by rewarding a carrier for each point below the reserve price. As such, the Commission does not adopt a cap or otherwise limit how far below the reserve price an applicant can commit. That being said, in the CAF II auction a significant portion of bidders dropped out of the bidding when faced with prices more than 30% below the reserve price, and the Commission would expect similar final prices here to avoid compromising quality or coverage across the entire geographic area.

TABLE 2—PRICE PER LOCATION SCORING

Price	Assigned points
Reserve Price	100
1% – 100% Below Reserve Price.	–1 point for each percentage below reserve.

12. *Reserve Price.* The Commission adopts, with one slight modification, the three-step process to determine the reserve price that the Commission proposed in the *PR-USVI Fund Notice of Proposed Rulemaking (PR-USVI Fund NPRM)*, 83 FR 27528, June 13, 2018, to allocate the budget. First, the Commission will employ the Connect America Model (CAM) to calculate the average cost per location for all locations in a census block. Second, the Commission will apply the full budgets for Puerto Rico and for the U.S. Virgin Islands, thereby creating territory-specific high-cost thresholds to ensure the full amount of the budget available to each territory over the 10-year period is available for disbursement. Third, the Commission will establish a reserve price for each geographic area in proportion to the support amounts calculated for each census block within that area. That is, the Commission will use the CAM to allocate a portion of the budget to each geographic area based on the relative cost of providing service across all eligible areas. Although the

Commission proposed using the extremely high-cost threshold to establish a per-location, per-month cap of \$198.60, as it has previously done, it will not apply a cap in this context. The total number of locations above the cap is relatively small, the reserve price for each geographic area will cover a larger geography, and the Commission expects competition to lower overall support amounts. The Commission directs the Wireline Competition Bureau (Bureau) to apply the modified three-step process it describes and release the reserve price for each geographic area and number of locations for all eligible areas by Public Notice.

13. The CAM is the best current objective data the Commission has combining cost and locations. The Bureau never formally adopted the CAM as it applies to either Puerto Rico or the U.S. Virgin Islands, but rather excluded those two territories (and Alaska) prior to calculating the offer of CAF II model-based support for price caps based on opposition in the record from the price caps serving those areas. However, the Commission uses the CAM for Stage 2 not to calculate the exact amount of support necessary for each eligible area—the applicants will provide this—but rather as an estimate of relative cost within each geographic area, to be used as an allocator of the budget. In other words, unlike for the offer of model-based support, the Commission will not use the CAM to establish specific final support amounts but to determine the relative costs of each area within the budget and the maximum amount of support available for each eligible geographic area. In the CAF II auction, most applicants were awarded support at less than 80% of the CAM-established reserve price, suggesting that the actual support amounts required to serve were often lower than model-calculated support figures, and the Commission believes it is likely that the same pattern will emerge through the competitive process here.

14. Because the CAM is the best objective mechanism the Commission has available to it and commenters did not suggest a specific alternative for setting reserve prices, the Commission declines to adopt a different approach based on commenters’ arguments that the CAM underestimates costs of providing service in Puerto Rico and the U.S. Virgin Islands and does not account for the costs of “storm hardening” a network. Given the limited role that the CAM will play as a budget allocator, coupled with the Commission’s desire to provide support to the Territories as quickly as possible, it would not be efficient to initiate a

process to update the CAM before the competitive application process; re-running the model to make adjustments to the locations currently within CAM prior to calculating the reserve price would require significant time and resources. Liberty suggested that, to accurately determine how many locations currently exist, it and other carriers undertake a physical walk of the existing locations in a sample of census blocks or geographic areas and then use those numbers to extrapolate the number of locations in similarly situated or adjacent blocks or areas. Reliance on a physical walk, or other new carrier-submitted data, would introduce substantial delays to implementing Stage 2, and invite potentially intractable disputes if carriers disagree regarding the number of locations, contrary to the Commission's goal of facilitating prompt deployment of resilient service throughout the Territories. Further, even a walk of a network could be inaccurate or outdated if buildout is happening concurrently, or if, as suggested, the walkout is only used as a method of projection across similarly situated areas. The Commission finds that its reliance on CAM will provide a reasonably accurate baseline by which to allocate the budget, and that conducting this process expeditiously outweighs any benefits that might result from conducting a time-consuming data collection before beginning the competitive application process. Moreover, given the benefits of a competitive process in allowing each applicant to request support at a level that reflects its understanding of the costs of deployment and in potentially lowering support below the reserve price, the Commission finds it is not necessary to incorporate specific network costs related to storm hardening. The Commission believes the additional support it provides during the 10-year term addresses these concerns and will allow carriers to do the work necessary to increase resilience of their networks.

15. *Network Performance.* To ensure that the Commission spends USF dollars wisely, it must consider both the cost (in terms of price per location) and benefits of each proposal. To evaluate the benefits, the Commission first assigns points based on proposed network performance to ensure that end users will receive quality service. Evaluating network performance is consistent with Commission high-cost support precedent.

16. The Commission establishes three tiers for network speed and usage allowances, and two tiers for network

latency, and allocate points for each. The Commission will accept applications at each of the different performance tiers, informed by its experience with the CAF II auction and prior Commission orders setting performance obligations. While the Commission aims to provide funding to all supported locations as cost-effectively as possible within its finite budget, the Commission also values higher speeds over lower speeds, higher usage allowances over lower usage allowances, and lower latency over higher latency. Therefore, for example, the Commission will consider proposals where the costs to serve are higher, if higher-performance services will be available. The Commission sees the value to consumers of having access during the 10-year term of support to service that exceeds its minimum requirements, and the Commission must take steps to ensure that the networks it invests scarce universal service support to build will stand the test of time. For 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—and latency that meets or falls below—the relevant standards to all locations within the geographic area. Applicants must also commit to offer this level of service throughout the 10-year term to ensure that all users can take advantage of the network services being funded. The Commission declines to expand the performance criteria to include scoring for customer service as WorldNet suggests. The Commission expects carriers will have adequate business incentives to use the high-quality networks they deploy with Stage 2 support to provide reliable service, and it declines to dictate specific business practices or provisions of customer agreements. Moreover, WorldNet failed to articulate how the Commission could adjust its scoring to accommodate customer service performance, what specific factors it should require, what metric it might use to evaluate those factors, or how it could assign a score based on a collection of individualized customer agreements.

17. The Commission requires support recipients to deploy a network capable of providing service at 25/3 Mbps as its minimum speed requirement. Although the *PR-USVI Fund NPRM* proposed 10/1 Mbps, fixed providers are now generally providing at least 25/3 Mbps and in many cases much faster speeds in both Territories as well as elsewhere in the United States. Additionally, alternative technologies like satellite are

increasingly able to offer higher speeds. As commenters note, a 25/3 Mbps minimum speed requirement is consistent with recent Commission action and helps 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. The Commission therefore declines the suggestion of AT&T and PRTC that it should adopt 10/1 Mbps as the minimum speed requirement. The Commission's recent experience with the CAF II Auction, in which winning bidders committed to making 25 Mbps/3 Mbps or better service to more than 99.7% of the locations in the areas won, affirms its conclusion that a higher standard of service is achievable, and the Commission does not want Puerto Rico and the U.S. Virgin Islands to be left behind. Indeed, the governments of the Territories themselves would prefer to see even higher-speed deployment to the Territories. While the Commission applauds these goals of the Territories, it declines to adopt an even higher speed (e.g., 100 Mbps) as its minimum requirement, as Governor Mapp suggested, as the data do not yet support this speed for all areas.

18. Additionally, the Commission adopts a minimum monthly usage allowance of 200 gigabytes (GB) or a usage allowance that reflects the average usage of a majority of fixed broadband customers, using Measuring Broadband America data or a similar data source, whichever is higher. In the *PR-USVI Fund NPRM*, the Commission proposed a 170 GB minimum usage requirement. As with the speed requirement, however, while some commenters suggested lower usage allowances, the Commission believes the current market supports higher usage requirements based on recent usage announced in the Bureau's *2019 Urban Rate Survey PN*.

19. The Commission will reward higher combinations of speed and usage allowances by allocating them fewer points as shown in Table 3. The Commission will assign 50 points to providers that commit to deploy the minimum speed requirement of 25/3 Mbps and a minimum usage allowance of greater or equal to 200 GB or the U.S. Median, whichever is higher. The Commission will assign 25 points to providers that commit to deploy networks offering 100/20 Mbps and a minimum usage allowance of 2TB per month. The Commission recognizes that Puerto Rico has a goal of Gigabit speed throughout 70% of the island by 2020 and U.S. Virgin Islands leadership seeks high-speed last-mile connections. To facilitate deployment of high-speed service in the Territories, the

Commission will assign no points for 1 Gbps/500 Mbps with 2TB or greater monthly usage allowance. In the CAF II auction, the Commission adopted tiers of 100 Mbps/20 Mbps and 1 Gbps/500 Mbps, each with a 2 TB usage allowance, and it sees no reason to deviate from that decision. In addition, the Commission declines the Fiber Broadband Association’s proposal to assign 70 points for the deployment of the minimum speed requirement tier because such a change would result in the points available for network performance, in the aggregate, outweighing price per location, contrary to the Commission’s determination to prioritize price per location first.

TABLE 3—NETWORK PERFORMANCE SCORING (1 OF 2)—SPEED/USAGE

Speed	Monthly usage allowance	Assigned points
≥25/3 Mbps	≥200 GB or U.S. median, whichever is higher.	50
≥100/20 Mbps	≥2 TB	25
1 Gbps/500 Mbps.	≥2 TB	0

20. *Latency.* The Commission adopts a maximum roundtrip broadband and voice latency of ≤ 750 milliseconds (ms) or less but give preference to applicants with low-latency broadband and voice at or below 100 ms as shown in Table 4 below. Accordingly, high-latency commitments will be assigned 40 points, and low-latency commitments will be assigned no points. While the *PR-USVI Fund NPRM* proposed a roundtrip latency of no greater than 100 ms, the Commission is persuaded that the better approach is to allow providers of higher-latency services to participate, while rewarding providers that commit to low-latency services. Providing flexibility will allow for greater participation, particularly by satellite providers, which is likely to increase competition and lower the cost of serving many geographic areas, while also ensuring that as many areas receive as many applications as possible. Further, satellite has proven to be an important tool in providing service to the Territories, particularly in the wake of natural disasters. The Commission concludes that this standard will ensure that consumers in rural, insular, and high-cost areas will have available an offering that enables them to use their broadband connections in ways reasonably comparable to consumers in urban or lower-cost areas, where fixed broadband services are widely available.

The Commission therefore rejects the arguments of several fixed service providers and Puerto Rico Telecommunications Regulatory Board (PRTRB) that it should adopt a requirement of 100 ms maximum latency.

TABLE 4—NETWORK PERFORMANCE SCORING (2 OF 2)—LATENCY

Latency	Requirement	Assigned points
Low	≤ 100 ms	0
High	≤ 750 ms	40

21. *Network Resilience and Redundancy.* Due to the risks particular to Puerto Rico and the U.S. Virgin Islands posed by future natural disasters, the Commission believes it is important to explicitly consider resilience, network hardening, and disaster preparation in its support determinations. Although the Commission has not previously evaluated these factors in the context of allocating high-cost support, the heightened risk of damage due to disasters, as demonstrated by Hurricanes Irma and Maria in the Territories, presents a special case. According to a *New York Times* evaluation of Small Business Administration data, nearly every zip code in Puerto Rico and the U.S. Virgin Islands sustained over \$5 million in losses from major natural disasters from 2002–2017. The study did not show similar losses in any state; indeed, although Puerto Rico only accounts for less than 1% percent of the U.S. population, it alone accounted for 5% percent of all losses from natural disasters in the nation during that time period. Further, because the Territories are insular, preparation for and recovery from disasters is particularly difficult and network infrastructure is especially vulnerable due to high shipping costs, topography and weather, and distance from the mainland. The Commission agrees with Liberty that network resilience is a key component of a successful network. Supporting resilient networks is consistent with the Commission’s obligation to use the Fund to help provide access to quality services at reasonable rates in Puerto Rico and the U.S. Virgin Islands, in light of the particular risks the Territories face. Further, a hardened network can help guard against future restoration costs. As PRTC illustrated, the storms devastated the progress made with the use of CAF Phase I frozen support. If the Commission is to provide Federal funding to support modern networks in

Puerto Rico and the U.S. Virgin Islands, it finds it prudent and in the public interest to account for the heightened possibility of future natural disasters in the Territories. The Commission therefore will factor the resilience and redundancy of any supported network in its fixed support allocation decision.

22. The Commission recognizes that resilience involves many factors, but its evaluation focuses on only a few key, objective criteria, consistent with its preference to avoid subjective processes. The Commission accounts for the more subjective and situationally dependent factors of maintaining a resilient network through its disaster preparation and response plan requirement. The Commission measures network resilience by the ability of network facilities to recover quickly from damage to its components or to any of the external systems on which it depends. Resilience-improving measures do not absolutely prevent damage; rather, they enable network facilities to continue operating despite damage and/or promote a rapid return to normal operations when damage does occur. The scoring the Commission adopts awards a points preference based on the level of resilience an applicant proposes to build into its network and/or the redundancy or diversity it proposes to create in its network.

23. Many service providers reported that burying fiber is their preference for creating resilient networks hardened against disasters. The Commission agrees that burying fiber is ideal because it provides the best protection of the network against the high winds of storms and the atmospheric elements in general. Burying fiber all the way to every location, however, may not be financially or physically feasible in mountainous areas or otherwise challenging topography, or in areas with frequent or high likelihood of flooding. Accordingly, the Commission’s scoring creates a preference for burying as much fiber as possible, but also allows for resiliency solutions that rely on a fixed wireless connection to the end user location, microwave backhaul, and/or satellite, which it finds are all less vulnerable than above-ground wireline service because they rely on relatively fewer physical facilities that are easier to restore. Satellite can be quite resilient, as shown by its performance and usage following the 2017 hurricanes, though the Commission expects there is a risk on the receiver end, as with a fixed wireless solution. While the record only identifies that carriers are installing microwave backhaul as a source of redundancy, the Commission includes it in its scoring

framework for the primary transmission path to maximize flexibility and ensure that numerous resilient options are available. It is clear following the storms that aerial transmission lines are not a storm-hardened solution that can provide reliable communications to customers living in the Territories. By all accounts, aerial transmission lines required the most repair and left the network the most vulnerable. The Commission agrees, however, with Viya that aerial wireline networks using high-wind rated composite poles provide more resiliency over traditional poles. Thus, based on the record, the Commission allows proposals based on aerial wireline deployment because it recognizes that it may be the most cost-effective, or even the only, means of providing service to some locations.

24. Accordingly, the Commission will assign 60 points for a solution that relies on aerial wireline deployment. Recognizing that new pole technologies, specifically high-wind rated composite poles, provide increased resiliency over traditional wooden poles, the Commission will assign as few as 40 points for use of high-wind rated composite poles over standard aerial wireline deployment. Similarly, the Commission will assign as few as 40 points for a resiliency solution that relies on fixed wireless connection to the end user, microwave backhaul, or satellite (*e.g.*, an all-satellite solution would receive 40 points). The Commission will assign as few as zero points for a resiliency solution that relies on buried fiber (*e.g.*, an all-buried fiber solution would receive no points).

25. The Commission recognizes that applicants are likely to use a mix of outside plant types, so it awards 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. For example, if 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, the Commission 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 resiliency. The Commission recognizes that network miles is not an apt measurement for satellite, so it will award points for a network that uses a mix of satellite and terrestrial transmission to the end-user location

based on the percentage of locations reached via each transmission medium. For example, if a carrier proposes to reach 50% of its network locations via satellite and 50% via aerial, the Commission will assign a resiliency score of 50 ((50% of 40) + (50% of 60)). The Commission declines Viya's proposal to measure resiliency for all services based on end-user connections because network miles is a better measure of the resiliency of the entire network. The Commission declines to adopt the proposals of Viya and PRTC to weigh core network miles more heavily than last mile connections. Applying this weighting would undermine the incentive to harden connections to end users, ultimately making networks less able to successfully withstand disaster. While Viya and PRTC are correct that core network miles serve many more customers than last-mile connections, for this same reason applicants need less incentive from the Commission's weighting system to harden core network miles compared to end-user connections.

26. Finally, as the Commission also value redundancy as a key measure of a storm-hardened network, it will assign up to 20 points depending on whether an applicant proposes a redundancy solution that includes a backup network or path diversity. Specifically, the Commission will assign no points for a proposal that includes either a backup network or path redundancy, and it will assign 20 points to a proposal that includes neither a backup network or path redundancy. In its comments, BBVI explains how both backup network and path diversity are important to developing redundancy in the network. Viya agrees that path diversity is important in building a resilient network. Network diversity means maintaining a separate type of communication network that can provide services should the first type fail. For example, a diverse network system could be one that normally provides services through a fiber network, but which switches over to a satellite network in an emergency situation. The Commission also agrees with Viya that a diverse network system could include the use of a high-speed mobile broadband network in an emergency situation. Path diversity means that there is an alternate route to achieving communications within the network. For example, a network with path diversity could be one that deploys services through fiber, but which maintains a backup fiber ring that could re-route traffic in an emergency where

the fiber network is cut, damaged, or otherwise not working. The Commission believes these types of diversity can be achieved regardless of the type of carrier and so maintain its technology neutral objectives. The Commission clarifies, however, that it will not deduct points for satellite providers for redundancy simply based on the availability of a backup satellite path. The risk during storms is to the satellite system's ground-based earth stations, not space stations. Indeed, the points of potential failure for an all-satellite network during a storm may be more concentrated compared to terrestrial networks. Although the Commission agrees with BBVI that both network and path diversity are important, to remain flexible and meet its statutory and policy goals with this support, the Commission scoring will equally reward a carrier for building in either network or path diversity. Nevertheless, the Commission encourages carriers to build both into their network wherever possible as a best practice for building a storm-hardened network. The Commission declines PRTC's proposal to assign up to 40 points for redundancy. The scoring already reflects the relationship between resiliency and redundancy in building a network and the Commission's priorities related to the inherent qualities of each technology. Moreover, increasing the redundancy score would result in an overall change in priorities of the scoring criteria by allowing the same number of points for price per location as for resiliency and redundancy, contrary to the Commission's determination to weight price per location most heavily. Additionally, the Commission declines Viya's proposal that it allow up to a 20 point deduction from the total resiliency and redundancy score for a commitment to provide at least eight hours of backup power at network components and customer locations because backup power, while important, is not a measure of *network* resiliency and because Commission rules already require voice providers to make available twenty-four hours of backup power for customers. Additionally, the Commission requires winning applicants in this process to account for backup power in their Disaster Preparation and Recovery Plans.

27. The Commission adopts the same approach for rewarding redundancy as it does for resiliency. For instance, if an applicant proposes building in network or path diversity for 60% of its network miles in a geographic area, the Commission will assign a redundancy

score of 8 (40% of network miles without path diversity or a backup network multiplied by 20). Consistent with the Commission’s approach to resilience, it recognizes that network miles is not an apt measurement for satellite, so it will reward a satellite service provider for redundancy based on the percentage of locations that it intends to reach with a backup network. For example, if a satellite provider

proposes to reach 80% of its network locations with a backup network, the Commission will assign a redundancy score of 4 (20% of locations without a backup network multiplied by 20). The Commission declines to adopt Hughes’ proposal to award points for hardening if, among other things, the diversity that the service provider incorporates into the network covers no less than 70% of the service area. The Commission

prefers the flexibility of a sliding scale to a binary system, and it does not see a significant benefit to rewarding coverage of areas without potential end-user locations. The Commission also declines Hughes’ proposal to change the amount of resiliency or redundancy points awarded to satellite, as the scoring already accounts for the inherent resiliency of satellite networks.

TABLE 5—NETWORK RESILIENCE AND REDUNDANCY SCORING

Network resilience and redundancy measures	Assigned points
Aerial wireline deployment	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.
Backup network/path diversity	0–20 sliding scale.

28. *Alternative Distribution Mechanisms.* The Commission views adopting a competitive process as the best and most efficient method for allocating high-cost support for fixed voice and broadband services in the Territories to achieve its goals for Stage 2, consistent with the Commission’s proposals in the *PR-USVI Fund NPRM*. The Commission agrees with Liberty that the superior applications will reveal themselves through a competitive process. The Commission therefore declines PRTC’s and Viya’s suggestions that it either grants the incumbent Local Exchange Carrier (LEC) a right of first refusal or directs Stage 2 support to the incumbent LEC. While PRTC and Viya each contend that its ability to provide cost-effective and comprehensive service across each respective territory justifies allocating support to it without exploring other options, the Commission finds that a fair and open competitive process (with safeguards built in to ensure that winners as a group are capable of providing quality services throughout Puerto Rico and the U.S. Virgin Islands) will ensure that the carrier that is able to commit to the best combination of price per location, network performance, and network resilience and redundancy wins support. PRTC and Viya will each have the opportunity to demonstrate that it is the best choice according to an objective process that is also open for other carriers to compete for support that has been as yet unavailable to them. For these reasons, the Commission finds that the benefits of a process open to competition outweigh any added delay compared to granting a right of first refusal or a right to funding. Further, the Commission does not find Viya’s request to deploy a more resilient

network capable of delivering faster service in exchange for guaranteed support persuasive. In the absence of a competitive process, the Commission cannot know whether it will obtain a better proposal than Viya’s, and unlike the Commission’s competitive process, Viya’s proposal would not allow for the possibility of reduced cost to the Fund.

29. The Commission expects allowing multiple providers—including those that have not traditionally received high-cost support—to compete for funding will increase the efficiencies of bringing advanced services to consumers in Puerto Rico and the U.S. Virgin Islands, without having to offer another right of first refusal to the incumbent. The CAF II auction demonstrated the clear benefits of injecting competition into the Commission’s high-cost support mechanisms. Further, the 2017 hurricane season represents a changed circumstance that justifies revisiting the Commission’s prior support decisions regarding Puerto Rico and the U.S. Virgin Islands to select what it now views as the best method of allocating support. Thus, while the Commission previously allowed the incumbent ETCs in the Territories to elect frozen support over model-based support and granted price cap incumbent ETCs the opportunity to receive model-based support in exchange for state-level service commitments, the Commission now departs from those decisions in this specific context. In the *USF/ICC Transformation Order*, the Commission relied on a series of predictive judgments in determining that it would offer a right of first refusal to price cap incumbent LECs prior to the CAF II auction, but the Commission no longer needs to rely on such predictive

judgments as the competitive process it adopts will identify the qualified provider best positioned to provide cost-effective, quality, hardened service according to the criteria the Commission establishes. The Commission agrees with commenters like WorldNet, BBVI, VPNet, Momentum Telecom, CRG and Hughes that its selection process should strive to be technology neutral and allow for diversity in the marketplace; granting the incumbent LEC a non-competitive right to support would be contrary to that goal.

30. The competitive process will advance the Commission’s goals for prompt and complete deployment in Stage 2, and it agrees with BBVI that additional steps in the process of allocating Stage 2 fixed support will only further delay buildout. Because the Commission views it as introducing unnecessary delay, it declines to adopt AT&T’s proposal to split fixed Stage 2 into a second stage focused on restoration and a third stage focused on new construction and network hardening. The proposed process is overly complicated and only further delays support to rebuild, improve, and expand service with little benefit to either the Commission or consumers. The Commission also declines Viya’s suggestion to bifurcate fixed Stage 2 Connect USVI Fund support into a \$16.4 million per year “Broadband Maintenance and Improvement Fund” and a \$2.25 million per year “Broadband Expansion Fund.” Viya’s suggestion would direct the vast majority of support to Viya without the benefit of a competitive process, contrary to the Commission’s rejection of that approach, and it would unnecessarily limit the amount of

support available for new, higher-speed, and more storm-hardened deployment.

31. The Commission also declines to subject proposals to public comment. Public comment would add unnecessary delay to this process without having any impact on the Bureau's application of objective scoring criteria. Moreover, placing applications on public notice would be inconsistent with the Commission's restrictions on prohibiting communications among applicants during the application process or with their approach in prior competitive processes for universal service support.

32. *Unified Approach.* In order to ensure the continued deployment of fixed and mobile voice and broadband service in the Territories, the Commission adopts similar Stage 2 frameworks for Puerto Rico and the U.S. Virgin Islands. Puerto Rico and the U.S. Virgin Islands have many similarities—both are insular, suffered greatly from Irma and Maria, are at risk of future disasters, and face lower average income and higher poverty levels than any state. The Commission agrees with PRTC that based on these similarities, it should adopt similar approaches for the Territories. While Viya argues that the Commission should adopt distinct approaches to the two Territories because of differences between Puerto Rico and the U.S. Virgin Islands, it finds that the significant similarities between the two Territories outweigh these differences. In particular, the Territories' similar insularity and risk of future natural disaster justify careful design of a similar approach to address these challenges. Both territories face significant economic hardship, so distinctions in this regard do not warrant different treatment. The Commission accounts for differences in population, density, and number of providers through the budget it sets for each territory and in establishing different geographic areas for Stage 2 fixed support. The Commission also finds that the substantial added complexity of designing two distinct programs would delay the initiation of Stage 2, to the detriment of the Territories.

33. *Submission of Competitive Proposals Public Notice.* Having adopted a competitive proposal approach for distributing Stage 2 support, the Commission directs the Bureau to release an initial Public Notice within 90 days from this publication of the Order that further details the expected timeline and submission process for competitive applications, and that restricts eligible providers from discussing their

applications or application strategy with each other during the application process and until awards are announced. The Commission expects that this Public Notice will reiterate the requirements for submission of a competitive proposal as adopted in the Order and provide additional information regarding the process for submitting an application. The Commission directs the Bureau to create any forms required for the submission of a competitive proposal and obtain the necessary approvals to use the form(s). The Commission expects the Public Notice will provide instructions on how to use and submit any forms, the certification of ETC status, the Letter of Credit, and the Disaster Preparation and Response Plan. Such an information collection should include sufficient information in order for the Bureau to score each submission for each geographic area within the application, consistent with the Commission's scoring system adopted in the Order. An applicant must submit only one comprehensive application to the Bureau for all geographic areas for which it is seeking support in a given territory, but it may include proposals within the application for all or only some of the geographic units. The Commission also directs the Bureau to include more detailed information regarding the timing of selection and awarding of support.

34. Following the submission of a competitive proposal, the Commission will permit an applicant the opportunity to make minor modifications to amend its application or correct defects noted by the applicant, the Commission, the Administrator, or other parties. Minor modifications may include correcting typographical errors in the application or supplying non-material information that was inadvertently omitted or was not available at the time the proposal was submitted. The Commission will not allow major modifications to be made after the application deadline. Major modifications may include, but are not limited to, any changes in the ownership of the applicant that constitute an assignment or change of control, or the identity of the applicant, or the certifications required in the proposal.

35. *Reviewing Competitive Proposals.* The Commission directs the Bureau to evaluate applications and select one winner per geographic area consistent with the methodology adopted in the Order. The Commission agrees with BBVI that it is in the best position to evaluate the competitive proposals and that Bureau review will yield the most efficient use of time and funds. The

Commission also agrees with Hughes that it should avoid a "beauty contest," but the Commission does not find it necessary to select a third-party reviewer to do so, as Hughes suggests. The Bureau has substantial experience with similar competitive processes—for example, the rural broadband experiments and the Lifeline Broadband Pilot—and with procurements to obtain numbering administration services. To ensure that winning applicants have the technical and financial qualifications to successfully complete their proposed projects within the required timeframes and in compliance with all statutory and regulatory requirements for the universal service support they seek, the Commission directs the Bureau to collect from each applicant and review and approve a detailed network plan and documents evidencing adequate financing for the project. To ensure a fair and thorough review of all applications the Commission directs the Bureau to score the applications using at least two independent reviewers for each application who will not communicate about the contents or merits of the applications prior to issuing a final score. Each reviewer shall score separately, and the final score for each application will be the average of all the reviewer scores. The Commission declines to direct the Bureau to provide a public comment period on an applicant's proposal prior to scoring, as suggested by Viya because a comment period is inconsistent with and unnecessary based on the objective scoring system the Commission outlines in the Order. Further, even a "brief" comment period may introduce months of delay if the Bureau is required to issue individualized written orders addressing arguments raised in comments to an application. While the Commission appreciates the PRTRB's offer to collaborate and encourage continued communication and feedback, it finds that a coordinated effort with another government agency in the way that the PRTRB proposes will not further the goal of efficiency in this process.

36. Once an applicant's proposal has been approved, including its Disaster Preparation and Response Plan, the Bureau will release a public notice announcing that the winning applicant is ready to be authorized. At that time, the winning applicant will be required to submit a letter of credit and any other required information, within a specified number of days, as described in the Order. After those documents are reviewed and approved, the Bureau will release a public notice authorizing the

winning applicant to begin receiving Stage 2 fixed support.

37. *Package Proposals.* The Commission declines to allow package proposals. By adopting relatively large geographic areas for allocating support—municipios in Puerto Rico and two large areas in the U.S. Virgin Islands—as compared to the census blocks used in the CAF II Auction, applicants will be able to leverage economies of scale even in the absence of package bidding. Allowing package proposals would substantially complicate the selection process and undermine the Commission's goals of facilitating a swift selection process and prompt deployment. The Commission finds that comparatively modest benefits of package bidding, in light of the large geographic areas it selects, are outweighed by the potential delays and complications in the application review process. All providers are welcome to submit a proposal for each eligible geographic area, and the Commission will evaluate and score each independently.

38. *Unawarded Areas/Areas Without Applications.* The Commission finds that it is premature to determine the process and amount of support for any unawarded areas until after the initial competitive proposal support is awarded. The Commission's primary focus is to encourage carriers to compete now for all areas of the Territories through the competitive proposal process it sets up. PRTC expressed concern about unawarded areas, noting a potential conflict between the competitive proposal process and the requirement that the incumbent serve any unawarded area with frozen support. However, the Commission expects that each unit will receive at least one sufficient application. The Commission does not want to create a process that potentially interferes with the incentives of the competitive proposal process. Following the awarding of support, the Commission directs the Bureau to develop options and provide to the Commission, within 90 days of authorizing all selected applicants, a recommendation and specific action plan to determine the provider and amount of support for each of the unawarded areas, if any.

39. *Support Term.* The Commission adopts a 10-year term of support, which it expects to begin in 2020, consistent with its proposal in the *PR-USVI Fund NPRM*. The Commission has used a 10-year support term on numerous other occasions. Overwhelmingly, commenters support the 10-year term. The Commission recognizes that, as BBI states, deploying a fixed network

is a time-consuming process. The Commission also agrees with PRTC that the unique challenge of having to rebuild from near complete devastation necessitates a 10-year term. While Liberty generally supports the 10-year term, it suggests frontloading support disbursement in the first five years to encourage network hardening due to the frequency and likelihood of natural disasters in the Territories. To the extent carriers can deploy more quickly while meeting their obligations, the Commission encourages them to do so. However, the Commission declines to accelerate the disbursements. A ten-year term with a six-year buildout obligation is consistent with the Commission's approach in CAF II. Given the complexity of deploying a hardened network, it is unclear to what degree faster disbursement would lead to faster hardened deployment. Accelerating disbursements would increase the contribution factor, which is not warranted when balanced against the uncertain benefits of accelerated disbursement or the Commission's responsibility to manage the Fund. Only Tier 1 opposed the 10-year term as "perpetuating a monopoly," but a competitive process addresses this concern by opening the opportunity to receive support while still providing support recipients the necessary time to recover the costs of deploying and maintaining a network.

40. *Eligible Providers.* The Commission allows all providers that had existing fixed network facilities and made broadband service available in Puerto Rico or in the U.S. Virgin Islands, according to June 2018 FCC Form 477 data, to be eligible to participate in their respective territory's competitive process. The Commission allows participation by fixed providers who rely on any technology, including satellite, that can meet the program's service requirements. The Commission agrees with numerous commenters that allowing inclusion of satellite providers is particularly valuable in the context of Puerto Rico and the U.S. Virgin Islands due to satellite's resilience and availability post-hurricanes. While AeroNet argues that the Commission should exclude satellite due to its high latency, it accounts for services' varying latency in its scoring, as the Commission previously did with weighting performance tiers in the CAF II auction.

41. The Commission finds adjusting the date to June 2018 introduces the possibility of more participation and still allows the Commission to conduct the process efficiently, receive proposals from experienced providers, and

minimize the risk that support recipients will default on service obligations. While the *PR-USVI Fund NPRM* proposed to limit participation to those providers that reported service as of June 2017 FCC Form 477 data, after further consideration, the Commission finds June 2018 allows for the inclusion of satellite providers and other providers that served the islands immediately post-hurricane, which promotes competition, but still focuses on participation by those providers with experience operating networks in the Territories. The Commission agrees with several commenters that experienced service providers are more likely to successfully deploy, given the unique challenges of serving the Territories. First, existing facilities-based providers possess experience serving the specific needs of the Territories, such as dealing with difficult terrain, distance from other landmasses, and relatively low subscribership rates, and as such are more likely to meet deployment targets. Additionally, the Commission agrees with PRTC and Viya that existing facilities-based service providers will be better equipped to expand service as quickly as possible, and existing providers with established track records serving these insular Territories will likely present a smaller risk of defaulting on their service obligations. To the extent that some providers would only enter those unique markets based on the availability of new Federal funding, the Commission is skeptical of such entities' ability to serve the specific needs of the Territories; ability to deploy quickly; level of financial risk; and commitment to provide long-term, high-quality service to consumers going forward. Moreover, the Commission finds that the time and resources required to pre-qualify for participation any potential new entrants would delay its implementation of Stage 2 with little benefit to the Fund or consumers. These concerns are all adequately addressed by limiting participation to providers that reported service as of June 2018 FCC Form 477 data.

42. The Commission will allow broadband providers that, according to June 2018 FCC Form 477 data, serve only business locations to participate. The Commission agrees with Neptuno that it "should cast a wide net with respect to eligible providers to allow for greater competition and participation" and that "[e]xcluding business-only providers would be detrimental to the recovery and expansion of services." The Commission expects broadband providers with experience serving business customers are likely to possess

the requisite capabilities, experience, and commitment to serving the Territories to warrant allowing them to participate. And business-only service providers are better equipped than those with no presence to expand quickly, possess an existing track record that suggests a reduced risk of default, and possess experience with at least some of the challenges of serving the Territories. The Commission requires any provider that receives support to serve all locations within the specified geographic area, as detailed in the following.

43. The Commission disagrees with Viya's suggestion that it limit participation to entities that previously provided both broadband and voice service. While voice is the supported service, a history of providing voice is not a necessary precursor to participation because the Commission allows providers to become ETCs after selection. And while the Commission agrees with Viya that deploying high-quality, legally compliant voice service entails challenges, it expects that an experienced provider deploying an advanced broadband network should be able to meet those challenges. The Commission therefore finds that the benefits of allowing additional participation, which may lead to superior proposals at reduced costs to the Fund, outweighs any incremental benefit of restricting participation to existing voice service providers.

44. *Eligible Areas.* After consideration of the record, the Commission adopts the proposal that all areas of Puerto Rico and the U.S. Virgin Islands will be eligible for support. The Commission agrees with PRTC, VPNet, and BBVI that making all areas eligible allows support to be used anywhere it is necessary for new service, network upgrades, or storm hardening and resilience. Setting a more ambitious goal than mere restoration—to facilitate high-quality fixed broadband deployment to the full Territories—will enable the Commission to promote provision of quality fixed service to more residents on a faster timetable and make available more backhaul to facilitate ongoing mobile deployment. The Commission recognizes that a consequence of making all areas eligible is that it may fund building in areas where networks currently exist, which departs from its usual approach. However, in the specific context of Puerto Rico and the U.S. Virgin Islands, the Commission finds that making the entirety of the Territories eligible for support at this time is necessary to ensure the deployment of resilient networks that are hardened against future disasters in

all parts of these insular Territories, rather than only in areas that are currently unserved. The Commission has already recognized the unique logistical and financial challenges of deploying networks in these insular areas, and the record here illustrates how these challenges are only exacerbated by the risk of experiencing natural disasters. Making all areas eligible allows for a holistic approach to building and hardening the network so that cost efficiencies can be realized wherever possible. Moreover, the Commission expects applicants that already have facilities in an eligible area to have a significant competitive advantage relative to other applicants, ultimately resulting in more efficient use of the budget. By dividing the islands into large geographic areas and requiring service by the winning applicants to all locations within those geographic areas, as discussed in the following, the Commission prevents the “cream-skimming” of lower-cost areas that some commenters fear. Ultimately, the Commission expects to receive competitive applications for areas where carriers already have existing network facilities and will rely on the Commission's deployment obligations and reporting to ensure widespread, efficient, and improved coverage.

45. *Geographic Areas.* For Puerto Rico the Commission adopts its proposal of a municipio as the geographic area for awarding support. The Commission agrees with PRTC and AeroNet that using municipios will allow for economies of scale that make serving the historically unserved areas of a municipio more economical. Additionally, municipios are well-defined and known to local populations and authorities. Coordination, planning, and cooperation with municipal authorities is likely to be easier on a municipio level, helping to promote efficient buildout. Finally, administering the competitive process will be easier using larger geographic areas, such as Puerto Rico's 78 municipios, versus its more than 900 barrios.

46. The Commission disagrees with commenters who argue for smaller geographic areas, such as census blocks, census block groups, or barrios or groups of barrios. First, the Commission finds the heightened risk of disaster and insularity of Territories makes them different enough from other areas that it should consider the proper geographic area freshly, and it declines to adopt census blocks or census block groups simply because it mirrors how support has been awarded in other proceedings. Second, because the Commission

requires winning applicants to serve all locations within a municipio, using municipios will not allow winning providers to provide service only in dense areas where there is already robust service and ignore unserved areas, as AT&T claims. Third, the Commission is concerned that using more granular geographic areas will create a greater risk of applicants applying only for lower cost areas, leaving higher cost areas without applications, and thus potentially without service. Puerto Rico has 55,156 distinct census blocks and 2,551 census block groups, but only 78 municipios. Liberty argues smaller areas allow providers to better target funding based on the very specific needs of a granular area. However, the Commission agrees with PRTC that permitting applicants to pick and choose among census blocks or census block groups is likely to increase the number of areas without applications and may create an inefficient patchwork of winners across the island. Additionally, adopting the municipios approach provides the efficiencies that package bidding of smaller areas would also allow. Liberty asserts that, with smaller areas, a provider is likely to align its proposal with its intended expansion, which Liberty argues results in more efficient use of support. The Commission is concerned, however, that allowing providers to customize their proposals to match their preexisting expansion plans would not create a sufficient incentive for providers to build to new, unserved areas. Moreover, proposals based on census blocks or census block groups may require a provider to artificially segment its network in each of its applications. Finally, proposals based on thousands of census blocks or census block groups would be extremely burdensome for Commission staff to review, which would frustrate the Commission's goal of conducting an efficient and expeditious process.

47. For the U.S. Virgin Islands, the Commission adopts two geographic areas for awarding fixed support—one that is composed of St. John and St. Thomas islands together and a second of just St. Croix island. Separating the islands into two geographic areas will allow for greater competition during the proposal process and potentially result in more than one funded carrier in the U.S. Virgin Islands. Viya argues that “the Commission must require participants to bid to serve the entire USVI as a single service area” because “[t]he economies of scale in the USVI are too limited for a provider to carve out a viable business serving only a

portion of the USVI." Viya does not support this argument beyond pointing to the U.S. Virgin Islands' population and distance from the mainland. And elsewhere, Viya identifies the distance between St. Croix and St. Thomas/St. John as an impediment to service, suggesting that synergies in serving the two areas are limited. In light of this lack of clarity, the Commission will err on the side of greater possible competition and adopt two geographic areas. The Commission does not believe more granular geographic areas in the U.S. Virgin Islands are tenable, however, because of the small size and challenging topography of the territory, and because of St. John's designation as a national forest.

48. *ETC Designation.* Consistent with the Act and the Commission's rules, a provider must be designated as an ETC before receiving high-cost support. The Commission allows fixed providers to obtain ETC designation after winning support, similar to the approach it followed for the CAF II Auction. There was broad support in the record for allowing carriers to become an ETC after winning support, but prior to receiving funds. Although Viya argues that the Commission should require applicants to become ETCs before applying to avoid having the failure of a winner to obtain ETC status adversely affect other applicants, it finds the benefits of an expeditious competitive process and reduced up-front costs for applicants outweigh the risk that Viya raises. The Commission's experience with the CAF II Auction showed that carriers had little difficulty obtaining ETC designation and that the vast majority of applicants were able to obtain ETC designation by the deadline.

49. Accordingly, the Commission adopts a requirement that, as a condition of receiving any awarded support through this competitive proposal process, a carrier must be an ETC. Any carrier that is not already an ETC must certify in its application that it will be designated within 60 days after being announced as a winner. Many of the likely applicants are already ETCs, and the PRTRB and U.S. Virgin Islands Public Services Commission (PSC) were able to designate several applicants within 60 days for Stage 1. Any winning applicant that fails to notify the Bureau that it has obtained ETC designation within the 60-day timeframe will be considered in default and will not be eligible to receive its support. A waiver of this deadline may be appropriate, however, if a winning applicant is able to demonstrate that it has engaged in good faith to obtain ETC designation but has

not received approval within the 60-day timeframe. No selected winner will be authorized to receive support prior to receiving its ETC designation.

50. The Commission also declines Viya's suggestion to ensure that applicants are currently compliant with their ETC designations and obligations. Conducting such investigations for each applicant could become highly time-consuming, which is inconsistent with a prompt distribution of support. Further, states and territories are better-positioned than the Commission is to evaluate compliance with the ETC designations they have granted. Finally, the Commission has not imposed this requirement previously in any competitive processes for allocating universal service support, and Viya has not explained why such a requirement is specifically warranted here.

51. *Spectrum.* As suggested by Viya, and as the Commission did in the CAF II Auction, to ensure that applicants seeking to rely on spectrum-based technologies have the capabilities to meet all standards the Commission adopts, it conditions participation on a demonstration of sufficient access to spectrum. Specifically, the Commission requires applicants proposing to use spectrum-based technologies to provide written evidence of authorizations or licenses, if applicable, and access to operate on the spectrum it intends to use, to reach the fixed locations within the areas for which they seek support. Applicants will be required to certify in their applications that they will retain their access to spectrum for the duration of the support term.

52. *Leases.* The Commission declines Viya's suggestion that it requires applicants to provide the Commission with up-front ten-year commitments for leased access to facilities they do not own. While the Commission expects applicants to be able to demonstrate how they will fulfill the commitments in their application, it refrains from dictating the specific business strategies and decisions of an applicant. Further, the Commission is concerned that requiring this lengthy commitment up-front could disproportionately advantage incumbent carriers.

53. *Deployment Obligation.* The Commission requires each winning participant to deploy by the specified deadline to all locations within the municipio(s)/island(s) for which it is the winning applicant. Many commenters supported the Commission's proposal to require a winning applicant to deploy to all locations within a geographic area as a condition of receiving support for funded locations. Requiring deployment to all locations within the geographic

area is consistent with the Commission's goal of ensuring resilient service to all parts of the Territories and its decision to make all locations eligible for support.

54. In establishing the specific deployment obligations for each eligible geographic area, the Commission makes three adjustments to safeguard against inaccurate data. First, although the Commission uses the existing CAM's location counts to determine how to allocate the budget to each geographic area, it will use the latest Census Bureau data to determine the actual deployment obligation. Second, the Commission establishes a one-year location adjustment process described in the following. Third, due to the potential of population shifts continuing post-hurricane, the Commission will reassess deployment obligations by the fifth year of Stage 2 and make adjustments to final deployment obligations. The Commission thinks this approach allows for the best balance of ensuring buildout to all existing locations, while permitting some adjustment of location numbers to reflect the possibility of population shifts in the Territories continuing.

55. The Census Bureau releases annual population data and has released several reports regarding population since the 2017 hurricanes. The Commission agrees with AT&T that the most current Census data will help give a better location count at the time of award than the locations identified by the CAM, and the Commission therefore deviates from its proposal in the *PR-USVI Fund NPRM* to rely on the CAM for the purpose of establishing deployment obligations. Accordingly, the Commission directs the Bureau to publish, along with the reserve prices for each area, its determination of the number of locations per geographic area, based on the most recent publicly available Census Bureau data for the Territories.

56. *Deployment Milestones.* As proposed in the *PR-USVI Fund NPRM* and as in the CAF II Auction, the Commission requires winning participants to deploy to at least 40% of locations after the third year of support, at least 60% after the fourth, at least 80% after the fifth, and 100% after the sixth year of support. While BBVI proposes a slightly accelerated timeline, the Commission adopts the default schedule for administrative convenience. Moreover, recipients have other incentives to complete their deployment as quickly as possible—faster than the default schedule—both to begin earning revenues from the new service offerings and to be in a position

where they are no longer required to maintain a letter of credit.

57. *One-Year Location Adjustment Process.* The Commission also establishes a one-year location adjustment process similar to the CAF II auction location adjustment process, in which winning applicants will have the opportunity to resolve location discrepancies. This process will begin upon release of the Public Notice announcing the winning applicants. The Commission expects this process will, in combination with the five-year review, mitigate any remaining issues with location accuracy. The Commission believes this process is necessary to adequately verify the locations in the Territories post-hurricanes, and relying on the Commission's existing "reasonable request" standard for rate-of-return carriers in the way that PRTC proposes is insufficient to ensure service to all locations. PRTC argues that simply requiring a winning recipient to provide service upon a consumer's reasonable request alleviates any need to count locations or verify that the obligation to serve all locations is met. The Commission disagrees. Determining the number of locations in each geographic area is important, not only for this proceeding, but also going forward to ensure data accuracy. Creating a process here that determines exact location numbers is compelling, as the degree of the location problem is unknown—due to the high-level of destruction and potential shifts in population, the location numbers could be substantially different. The Commission is requiring carriers to serve all locations, not just some number of locations, and it has lowered the high-cost threshold to allow carriers to do this. The Commission is concerned that allowing carriers to simply make up any difference using the reasonable request standard would only create an incentive for inefficient use of support that it would be unable to audit.

58. AT&T suggests updating the CAM by giving carriers a year to identify and report location discrepancies, and while the Commission declines to do so prior to accepting applications as described in the Order, it agrees with AT&T's suggestion to give carriers the opportunity to adjust location counts. Further, the Commission wants to encourage participation in the competitive process, and even with the five-year review, applicants may still be reluctant to apply for an area due to the high possibility of a discrepancy in locations. Accordingly, as the Commission did with the CAF II Auction, it adopts a one-year notice

period during which it will require Stage 2 fixed support recipients to bring to the Commission's attention discrepancies between the number of locations announced by the Bureau and the number of locations actually on the ground in the eligible areas within their winning areas. If a support recipient can sufficiently demonstrate that it is unable to identify actual locations totaling the number determined by Census Bureau data, its obligation will be reduced to the total number of locations it was able to identify in the area and its support will also be reduced on a pro rata basis. The Commission makes the one-year location adjustment process mandatory for support recipients to ensure accuracy and that it is using USF dollars efficiently.

59. Specifically, within one year after release of a public notice announcing the winners, a recipient that cannot identify actual locations must submit evidence of the total number of locations in the eligible areas, including geolocation data (indicating the latitude/longitude and address of each location), in a format to be specified by the Bureau, for all the actual locations it could identify. Relevant stakeholders will have the opportunity to review and comment on the information, after which the Bureau shall issue an order addressing the recipient's showing and any such comments. The evidence submitted by a support recipient will also be subject to potential audit. The Commission previously directed the Bureau to implement this process for the CAF Phase II auction, including establishing procedures and specifications for the submission of this information, such as collecting the data through the Universal Service Administrative Company's (USAC) High Cost Universal Service Broadband (HUBB) online location reporting portal, and the Commission directs the Bureau to use a similar process here. In cases where the Bureau has determined by a preponderance of the evidence that there are no additional locations in the relevant eligible areas, the Commission directs the Bureau to adjust the support recipient's required total location obligation and reduce its support on a pro rata basis. The Commission directs the Bureau to issue a public notice or order detailing instructions, deadlines, and requirements for filing valid geolocation data and evidence for both support recipients and commenters, with any adjustments necessary that are unique to the Territories. The Commission declines to adopt PRTC's proposal to apply a pro rata reduction only where the final number of

locations is less than 90% of the total locations. The Commission expects an applicant's proposal to reflect its due diligence and informed business determinations of the costs and support amount required to satisfy its commitments, and as such, the Fund should not be accountable for the incorrect assumptions in a carrier's proposal. Further, the Commission does not wish to provide support for non-existent locations.

60. *Fifth-Year Reassessment.* Consistent with the Commission's proposal in the *PR-USVI Fund NPRM* to establish a fifth-year reassessment, it establishes a voluntary process to reassess the deployment obligations of the applicants awarded fixed support before the end of the fifth year of support. Conducting a reassessment helps the Commission to ensure that it is spending Fund resources wisely and based on up-to-date information. The Commission agrees with VPNet and BBVI that there are clear benefits to revisiting deployment obligations during the support term to address any intervening events, new data, or other changed circumstances that may impact deployment obligations. While the Commission inquired about whether to tie the reassessment to deployment milestones and trigger the reassessment only if a provider falls short, it declines to do so limit this process and instead create a voluntary opportunity for support recipients to request the Commission carefully review its obligations. Specifically, the Commission directs the Bureau to establish a process no later than the beginning of the fifth year to provide recipients an opportunity to request reassessment of their obligations. The Commission expects any request for reassessment will be accompanied by specific information, documents, evidence and data upon which the agency can make an informed decision. This reassessment will allow the Bureau to determine whether to adjust any deployment requirements based on newly-available data or changes in circumstances, such as future disruptive disasters or altered subscribership or revenue due to population shifts. The Commission directs the Bureau to seek public comment on any requested reassessment, including on the documentation, data, and evidence put forward to support the request, and then evaluate the record. If, based on the Bureau's review, an adjustment of deployment obligations or locations is warranted for any winning applicant, the Commission directs the Bureau to

announce those changes in a public notice.

61. *Support for Fixed Providers in Puerto Rico.* The Commission allocates a maximum budget of \$504.7 million over 10 years for Stage 2 fixed support for the Uniendo a Puerto Rico Fund. This represents an increase of \$60.2 million above the \$444.5 million budget proposed in the *PR-USVI Fund NPRM*, and an annual increase of about \$14.1 million, or 39%, over the current annual support amount. The Commission agrees with commenters that factors such as Puerto Rico's challenging economy—including median household income of only around \$20,000—can contribute to low subscription rates and low average customer revenue. PRTRB also explains that inland areas of the island contain rocky terrain that challenge deployment and that those physical challenges are exacerbated by mudslides and flooding triggered by tropical storms and hurricanes. The Commission is convinced that the proposed budget may not adequately account for these challenges in deploying storm-hardened fixed service to Puerto Rico.

62. The Commission determines this budget by running the CAM with a reduced high-cost funding threshold of \$29.00 per location, eliminating the extremely high-cost threshold, and without accounting for reported competitive coverage. In contrast to the Commission's approach to CAF, this method allows for support to relatively lower-cost locations and eliminates any limit on support for extremely high-cost locations. These changes are appropriate so that the Commission can better account for the economic challenges facing providers in Puerto Rico and so it can ensure deployment of storm-hardened networks to all locations in Puerto Rico in a single stage. The Commission views rapid deployment of storm-hardened, quality networks to all locations in Puerto Rico as an important priority. The CAM uses the most relevant and reliable cost data for the Territories and it is the Commission's best and only objective means of projecting cost, even if it does not capture all fixed costs of serving the Territories. Because requiring resilience, redundancy, and maintenance of a Disaster Preparation and Recovery Plan is novel and the Commission does not yet have applicants' proposals, it relies on an approximation through modifications to its application of the CAM. The Commission believes the adjustments it makes yield a budget appropriate to support the additional costs associated with building resilient and redundant networks in Puerto Rico,

and therefore declines to impose a significant delay in awarding support that would be necessary to alter the CAM inputs or otherwise develop a different mechanism to calculate the budget. The Commission notes that the competitive process it establishes will allow each applicant to request support at a level that reflects its understanding of the costs of deployment, potentially driving actual support below the reserve price and reducing the need for the Commission to calculate cost with greater precision.

63. The Commission disagrees with PRTC's suggested Stage 2 fixed budget for Puerto Rico of \$98 million per year. Its proposed adjustments to the CAM assume that it would be necessary for the Commission to support new construction in all locations in Puerto Rico, which is not a reasonable assumption because most carriers have reported complete or near complete restoration, including PRTC. The Commission notes that PRTC's proposed supplemental calculations to the CAM, which yield the budget it advocates, do not address all of the CAM's limitations in terms of tailoring to this proceeding. The Commission does not intend to adopt a budget that would cover every conceivable cost a carrier may identify. In the Commission's predictive judgment, the budget should be sufficient to conduct a robust competitive process and it declines to decide at this time that it should revisit a larger budget in the near future. Insofar as any component of the Stage 2 budget the Commission adopts here unexpectedly falls short of achieving its goals, it can revisit it at a future date.

64. *Support for Fixed Providers in the U.S. Virgin Islands.* The Commission adopts the budget proposed in the *PR-USVI Fund NPRM* and therefore allocate up to \$186.5 million over a 10-year term for fixed broadband in Stage 2 of the Connect USVI Fund. The record reflects support for the Commission's proposal, and it did not receive comments advocating a reduction to the U.S. Virgin Islands fixed budget. The Commission notes that if it applied the same CAM-based approach to calculate the budget for the U.S. Virgin Islands as the Commission does for Puerto Rico, it would reduce the ten-year fixed budget by about \$38 million. The Commission finds that the CAM therefore indicates that the U.S. Virgin Islands budget is sufficient, and it finds there is no need to increase the budget at this time. At the same time, the Commission finds it is not prudent to reduce the budget and thereby reduce the likelihood of success of the competitive process it adopts. As with Puerto Rico, the Commission

expects the competitive process it adopts to encourage competition to use support in a cost-effective manner, potentially leading to actual disbursement falling below the budgeted amount.

65. *Other Approaches to Allocation.* While some commenters recommend basing the Commission's allocation of fixed or mobile support solely on a single factor, such as on relative population or cost to serve, the Commission finds the approach it adopts in the Order is the most appropriate to address the needs of the Territories. AT&T suggests the allocation between the Territories should be based on the latest Census Bureau figures, but, the Commission does not currently have before it reliable post-storm data that would provide it with a basis to rely solely on population to allocate funding. The Commission also declines the request of Data@ccess that it considers the relative financial struggle of the carriers in support decisions because the Commission's allocating fixed support on a competitive basis and it does not want to reward possible inefficiency.

66. The Commission adopts thorough oversight and accountability measures like those that it has implemented in other recent high-cost support proceedings. Together, these measures fulfill the Commission's obligation to ensure that providers receive support "only for the provision, maintenance, and upgrading of facilities and service for which the support is intended" as required by section 254(e) of the Act. The Commission agrees with several commenters that careful oversight is necessary for it to ensure that recipients use support from the Uniendo a Puerto Rico Fund and Connect VI Fund efficiently and for its intended purposes.

67. *Reporting and Certification.* The Commission requires fixed support recipients to satisfy all reporting and certification obligations of providers receiving CAF II auction support, as the Commission proposed in the *PR-USVI Fund NPRM*. Accordingly, each support recipient must, among other things, certify that it is able to function in emergency situations, and submit information regarding anchor institutions served. The Commission aligns annual deployment reporting obligations with those adopted in the *March 2016 Rate-of-Return Order*, 81 FR 24282, April 25, 2016, as the Commission proposed in the *PR-USVI Fund NPRM*. Accordingly, each support recipient must annually submit a certification and data demonstrating locations where it is prepared to offer

voice and broadband service meeting the requisite performance standards. Failure to timely file geolocation data and associated deployment certifications may result in a reduction in support. The Commission also requires awarded providers to measure and report the speed and latency performance of their broadband service in accordance with the requirements previously adopted, consistent with the proposal in the *PR-USVI Fund NPRM*. The Commission requires fixed support recipients to annually certify their progress toward (or, beginning after the sixth year, completion of) deployment in accordance with the resilience and redundancy commitments in their application and in accordance with the detailed network plan they submitted to the Bureau thereafter. In the certification, applicants must quantify their progress toward the resilience and redundancy targets specified in their applications (e.g., number of fiber miles buried and/or deployed aurally, miles of fixed wireless last-mile connections and/or microwave backhaul, miles with a backup network or path diversity for terrestrial networks, locations reached with a backup network or path diversity for satellite). If, after the sixth year, the support recipient falls short of its resilience or redundancy commitment in a manner that would have resulted in a higher point total, such failure will result in the withholding of support equal to a day of support for every mile by which the applicant fell short (or equal to a day of support for every end user location by which the applicant fell short, in the case of satellite). This support reduction is appropriate and reasonably scaled given the commitment an applicant makes to the Commission in its proposal and the opportunities it provides winning applicants to adjust those commitments and seek reassessment during the deployment process. Collectively, these requirements will ensure that the PRTRB, U.S. Virgin Islands PSC, USAC, and the Commission possess sufficient information to fulfill its oversight obligations.

68. The Commission subjects awarded providers to the same compliance standards as other high-cost support recipients with defined obligations, consistent with the Commission's proposal in the *PR-USVI Fund NPRM*. Pursuant to these standards, a provider that fails to meet its milestones may have its support reduced until it can meet its obligations or face recovery actions. Several commenters support this proposal, and the Commission agrees that adopting clearly-defined

consequences for non-compliance modeled on other defined obligation high-cost support mechanisms is necessary to ensure compliance.

69. The Commission declines to adopt new recordkeeping requirements regarding expenditures. The Commission finds the general recordkeeping obligation of ETCs is sufficient to facilitate oversight. The Commission's rules already require support recipients to maintain documentation for ten years, sufficient to justify deployment and spending, and recipients are subject to random audits to defend their expenditures. The Commission finds that additional requirements to maintain more detailed recordkeeping would be duplicative and overly burdensome and are, therefore, unnecessary for this process.

70. *Letters of Credit*. The Commission requires winning applicants to obtain a letter of credit, consistent with the requirements applicable to winning bidders in the CAF II Auction and other competitive bidding processes, including the same eligibility criteria for the issuing bank. The Commission agrees with Viya that it should expressly adopt the same letter of credit requirements that the Commission put in place for the CAF II Auction. The Commission finds that requiring an irrevocable letter of credit from a reliable financial institution is necessary to protect the Fund, and is an effective means of securing its financial commitment to provide Connect America support. Letters of credit permit the Commission to protect the integrity of universal service funds that have been disbursed and to reclaim support that has been provided in the event that the recipient is not using those funds in accordance with the Commission's rules and requirements to further the objectives of universal service. Moreover, letters of credit have the added advantage of minimizing the possibility that the support becomes property of a recipient's bankruptcy estate, thereby preventing the funds from being used promptly to accomplish the Commission's goals. Merely requiring a performance bond would not provide the same level of protection and would require the involvement of a third party to adjudicate any disputes that arise, which would complicate the Commission's process and unnecessarily limit the authority of the Commission to allocate funds. Experience shows that a competitive support program can obtain broad participation with a letter of credit requirement in place—the CAF II Auction received applications from 220 qualified applicants and awarded

\$1.488 billion in support to 103 winning applicants. The Commission therefore rejects arguments that it should allow use of a surety or performance bond in lieu of a letter of credit.

71. As explained in the Order, if an entity fails to meet the terms and conditions after it begins receiving support, including the build-out milestones and performance obligations the Commission adopts in the Order, and fails to cure within the requisite time period, the Bureau will issue a letter evidencing the failure and declaring a default, which letter, when attached by USAC to a letter of credit draw certificate, shall be sufficient for a draw on the letter of credit to recover all support that has been disbursed to the entity.

72. *Letter of Credit Opinion Letter*. Successful applicants must also submit with their letter(s) of credit an opinion letter from legal counsel. That opinion letter must clearly state, subject only to customary assumptions, limitations, and qualifications, that in a proceeding under the Bankruptcy Code, the bankruptcy court would not treat the letter of credit or proceeds of the letter of credit as property of the account party's bankruptcy estate, or the bankruptcy estate of any other Stage 2 competitive application process recipient-related entity requesting issuance of the letter of credit under section 541 of the Bankruptcy Code.

73. *Value of Letter of Credit*. When a winning applicant first obtains a letter of credit, it must be at least equal to the amount of the first year of authorized support. Before the winning applicant can receive its next year's support, it must modify, renew, or obtain a new letter of credit to ensure that it is valued at a minimum at the total amount of money that has already been disbursed plus the amount of money that is going to be provided in the next year. As in CAF II, the Commission concludes that requiring recipients to obtain a letter of credit on at least an annual basis will help minimize administrative costs for USAC and the recipient rather than having to negotiate a new letter of credit for each monthly disbursement.

74. Recognizing that the risk of a default will lessen as a recipient makes progress towards building its network, as in CAF II the Commission finds that it is appropriate to modestly reduce the value of the letter of credit in an effort to reduce the cost of maintaining a letter of credit as the recipient meets certain service milestones. Specifically, once an entity meets the 60 percent service milestone that entity may obtain a new letter of credit or renew its existing letter of credit so that it is valued at 90

percent of the total support amount already disbursed plus the amount that will be disbursed the next year. Once the entity meets the 80 percent service milestone that entity may obtain a new letter of credit valued at 80 percent of the total support amount already disbursed plus the amount that will be disbursed the next year. As in CAF II, the Commission concludes that the benefit to recipients of potentially decreasing the cost of the letter of credit as it becomes less likely that a recipient will default outweighs the potential risk that if a recipient does default and is unable to cure, the Commission will be unable to recover a modest amount of support. The letter of credit must remain open until the recipient has certified it has deployed broadband and voice service meeting the Commission's requirements to 100% of the required number of locations, and USAC has verified that the entity has fully deployed.

75. *Defaults.* Consistent with the CAF II Auction, the Commission concludes that any entity that files an application to participate in the Stage 2 competitive process will be subject to a forfeiture in the event of a default before it is authorized to begin receiving support. The Commission will propose a forfeiture in lieu of a default payment. In the CAF II Auction, the Commission adopted a base forfeiture of \$3,000 per census block group for any entity that failed to meet the document submission deadlines or was found ineligible or unqualified to receive support by the Bureaus on delegated authority, or otherwise defaulted on its bid or was disqualified for any reason prior to the authorization. The Commission adopts here the same base forfeiture of \$3,000 per census block group within the geographic area at issue, subject to adjustment based on the criteria set forth in the Commission's forfeiture guidelines, for a default by an applicant before it is authorized to begin receiving support. Applying the same base forfeiture that the Commission adopted in the CAF II Auction is warranted here because, in both proceedings, the party's failure risks undermining the competitive process that the Commission has established.

76. An entity will be considered in default and will be subject to forfeiture if it fails to meet the document submission deadlines for competitive proposals or is found ineligible or unqualified to receive Stage 2 support by the Bureau on delegated authority, or otherwise defaults on its winning proposal or is disqualified for any reason prior to the authorization of support. A winning applicant will be

subject to the base forfeiture for each separate violation of the Commission's rules. For purposes of the Stage 2 competitive process, the Commission defines a violation as any form of default with respect to the geographic area eligible for proposals. In other words, there shall be separate violations for each geographic area subject to a proposal, with the base forfeiture determined by the number of census block groups within the geographic area at issue. That will ensure that each violation has a relationship to the number of consumers affected by the default and is not unduly punitive. Such an approach will also ensure that the total forfeiture for a default is generally proportionate to the overall scope of the winning applicant's proposal. Consistent with past Commission proceedings, to ensure that the amount of the base forfeiture is not disproportionate to the amount of an applicant's proposal, the Commission also limits the total base forfeiture to five percent of the total support amount contained in the applicant's proposal for the term.

77. The Commission finds that by adopting such a forfeiture, it impresses upon recipients the importance of being prepared to meet all of the Commission's requirements for the post-selection review process and emphasize the requirement that they conduct a due diligence review to ensure that they are qualified to participate in the Stage 2 competitive proposal process and meet its terms and conditions.

78. The Commission directs the Bureau to establish a process to enable the selection of next-in-line applicants for fixed Stage 2 support in the event any of the provisionally winning applicants defaults. Doing so will enable Bureau staff to quickly identify otherwise qualified applicants in the event any of the initially selected applicants defaults prior to authorization. As the Commission does not contemplate a future competitive process for these areas and instead require Stage 2 support recipients to deploy to all locations in the Territories, expediting selection of a next-in-line applicant is especially important in this context. Based on the next-in-line process the Commission establishes, along with other safeguards it put in place in the Order, the Commission rejects Viya's arguments against a competitive approach predicated on the risk that the new awardee may fail to perform.

79. *Audits and Oversight.* The Commission subjects awarded providers to ongoing oversight by them and USAC to ensure program integrity and prevent

waste, fraud, and abuse. The Commission reminds providers that high-cost support recipients "are subject to random compliance audits and other investigations to ensure compliance with program rules and orders." The Commission directs USAC to review and revise its audit procedures to take into account the changes adopted in the Order and to initiate audits of Stage 2 fixed disbursements throughout Stage 2 fixed support years. The Commission agrees with Liberty that random application of this long-standing, continually updated audit program is essential to ensuring program integrity. Because the Commission sees no reason to vary from its overall approach to auditing high-cost support recipients, it declines to adopt Free Press's suggestion that it requires USAC to audit every Stage 2 support recipient. To address Free Press's concern about possible "double-dipping" from insurance and USF support, in addition to requiring random audits, the Commission directs USAC to audit any Stage 2 support recipient for which it has substantial evidence of noncompliance. The Commission finds it preferable to allow USAC flexibility to deploy its auditing resources for maximum efficiency. Adopting Free Press's suggestion to audit all support recipients could lead to wastefully expensive audits relative to the amount of support at issue. Moreover, the deployed locations that recipients report will also be subject to verification, as USAC currently does for all HUBB filers. Recipients must retain sufficient evidence to demonstrate that they have built out to all of their reported locations and be prepared to produce that evidence to USAC in the course of a compliance review.

80. As with all recipients of Federal high-cost universal service support, the Commission may initiate an inquiry on its own motion to examine any ETC's records and documentation to ensure that the universal service support the ETC receives is being used "only for the provision, maintenance, and upgrading of facilities and services" in the areas in which it is designated as an ETC. ETCs must provide such records and documentation to the Commission and USAC upon request. The Commission also may assess forfeitures for violations of Commission rules and orders.

81. The Fund currently directs approximately \$36.3 million in frozen support each year to fixed services in Puerto Rico and \$16 million in frozen support each year to fixed services in the U.S. Virgin Islands. None of this support is tied to specific build-out targets for which the support recipients must be accountable, however. As

proposed in the *PR-USVI Fund NPRM*, as the Commission ramps up the competitive process it adopts, it will phase down frozen support, which will no longer be necessary. For the first 12 months following authorization of a winning applicant, the carrier will receive $\frac{2}{3}$ of its frozen support; in the second 12-month period, the carriers will receive $\frac{1}{3}$ of its frozen support; thereafter, the carrier will only receive whatever, if anything, has been awarded through the competitive application process. The Commission recognizes that winning applicants for different geographic areas may be authorized at different times, so for each geographic area for which a winning applicant is authorized, the phase-down will begin the month following the authorization of the winning applicant for that geographic unit. In order to allocate frozen support to each geographic unit across the Territories during the phase-down process, the Commission will base phased down support on the percentage of fixed Stage 2 support the model allocates to that unit. The Commission adopts this method because it ties remaining frozen support to an estimate of the relative cost of serving different geographic areas. In the event either price cap carrier is awarded support in an eligible area in its respective territory, however, the new support would completely replace legacy support upon authorization with no transition. Given the carrier's explicit endorsement of the support amount in its application, the Commission sees no need for additional support to ease the transition.

82. The Commission finds that eliminating frozen support will allow for greater competition and transparency and promote more cost-effective use of the Fund. A phase-down will ensure there is a reasonable transition from current support amounts, consistent with Commission's overall USF goals and preference to avoid flash cuts in support, and will allow PRTC and Viya to plan accordingly. Consistent with the Commission's decision not to grant incumbent LECs either a right of first refusal or an absolute right to support, it declines PRTC's and Viya's requests to maintain frozen support indefinitely. Contrary to PRTC's claim, elimination of frozen support is not punishment for being hit by a hurricane—rather, the hurricanes present changed circumstances that warrant reevaluation of the Commission's approach to funding service in Puerto Rico and the U.S. Virgin Islands. By shifting to a competitive approach that accounts for

cost, quality, and resilience, the Commission reduces the likelihood that broadband deployment supported by the Fund will be lost due to a future disaster compared to simply maintaining frozen support. The Commission also expects the competitive process it designs, with defined deadlines along with quality and resilience obligations, will lead to faster, higher-quality deployment to all parts of the Territories compared to maintaining frozen support. Further, the Commission accounts for the unique challenges of insular carriers in the Territories in numerous ways in Stage 2, including by accounting for disaster preparation, resilience, and redundancy; limiting participation to those with experience serving the Territories; and increasing available support relative to the prior frozen support amount.

83. The Commission also rejects PRTC's and Viya's argument that their claimed reliance interests in frozen support justify maintaining such support on an ongoing basis. First, the Commission does not believe either company had a reasonable expectation of ongoing frozen support. Through its work on the Connect America Fund, the Commission has demonstrated a preference for competition and defined obligations. While the Commission in 2014 indicated that it would adopt tailored service obligations for non-contiguous carriers that elect frozen support, it has not done so, which would indicate to a reasonable carrier that the Commission does not view as-is frozen support as a long-term solution. The 2017 hurricanes represent a changed circumstance that, by largely eliminating deployment gains from CAF funding in Puerto Rico and leading to extensive destruction of Viya's network in the U.S. Virgin Islands, should have put PRTC and Viya on notice that the Commission would be likely to revisit its policies. And the *PR-USVI Fund NPRM* proposed to adopt a competitive mechanism to replace frozen support. Putting all of this together, PRTC and Viya should have been on notice that they were unlikely to be able to rely on ongoing frozen support. Second, even if PRTC and Viya had reasonable reliance interests, the Commission finds the public policy benefits of shifting to a competitive approach outweigh any private reliance interests. The Commission has devised Stage 2 fixed support to select the carriers able to commit to the best mix of cost-effective, quality, and storm hardened service. In contrast, PRTC and Viya do not have any defined service obligations in exchange for frozen support, and

adopting defined obligations for frozen support at this point would be superfluous to the Stage 2 fixed obligations the Commission adopts. Therefore, maintaining frozen support on top of Stage 2 support, beyond a necessary phase-down period, would be wasteful and fail to serve the limited purposes for universal service support set forth in section 254.

84. Because the Commission has increased the budget for fixed Stage 2 relative to previous support for the territories and expect to award support for all locations in the Territories through the competitive process it adopts, the Commission rejects Viya's argument that eliminating its frozen support is a threat to universal, affordable service in the U.S. Virgin Islands. By its own account, Viya is in a strong position to make use of support to efficiently expand and improve service, and the Commission draws confidence from these assertions that whether the winning applicant in each of the two U.S. Virgin Islands geographic areas is Viya or another provider that is able to make an even better proposal, the U.S. Virgin Islands will receive high-quality service. The Commission notes further that 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, and it expects Viya to comply with its legal obligations and to continue to work to maximize its return from its network. Moreover, the support the Commission has already provided and the phasedown it adopts should reduce the risk of disruption if a new recipient is awarded support. The Commission does not find it prudent to assume it is necessary to adopt an extended period of overlapping support for the incumbent and the winning applicant in response to a hypothetical risk of disruption.

85. Similarly, while PRTC quotes the conclusion in the *PR-USVI Fund Order*, 83 FR 27515, June 13, 2018, that "disrupting the existing flow of frozen support is likely to harm restoration efforts, especially in more rural areas where those receiving historical support are more likely to serve," circumstances have since changed in two important ways, warranting a new approach. First, carriers have made much more progress toward successful restoration of fixed networks. Second, the Commission has devised a new, long-term Stage 2 that appropriately shifts the focus of its support from restoration of the pre-hurricane status quo to high-quality,

resilient deployment to all locations in the Territories.

86. Commenters presented several other suggestions as potential solutions to creating resilient networks in the territories. Although the Commission appreciates the forward-thinking and creative suggestions, it is limited by its legal authority and by the Commission's desire to create a technology neutral competitive process for establishing high-cost support to the Territories going forward. The Commission also does not want to use conditions on support as a vehicle to achieve policy goals beyond those it has set forth for Stage 2 support. Accordingly, the Commission declines to condition support on building out last-mile connections to the federally funded high-speed open access middle mile in the U.S. Virgin Islands. Likewise, the Commission declines to condition support on adopting a reciprocal access requirement for entities outside of the Commission's jurisdiction. Indeed, the former Governor of the U.S. Virgin Islands opposed this suggestion, noting that imposing such a requirement would be outside of the Commission's authority. The Commission does not think it would be appropriate to leverage Stage 2 funding for the express purpose of reaching beyond its jurisdiction, and it does not believe it would have sufficient notice to adopt such a requirement.

87. The Commission encourages Puerto Rico and the U.S. Virgin Islands to consider approving one-time territory-wide permits for Stage 2 support recipients to bury fiber. The Commission believes such an approach may facilitate efficient deployment in the Territories. At the same time, the Commission does not want to intrude upon Territory decision-making and defer to local authorities on this topic. The Commission strongly encourages cooperation between carriers and local authorities to facilitate the restoration, improvement, and expansion of telecommunication networks for the benefit of all consumers in Puerto Rico and the U.S. Virgin Islands.

88. The Commission declines Tier 1's suggestion that it negotiates directly with Tier 1, Level 3/CenturyLink, viNGN and the Bureau of Information Technology (BIT) to adopt their combined solution for U.S. Virgin Islands. The Commission applauds Tier 1 and its business partners for working toward a creative solution together and encourage continued open inter-industry communication on how to best provide critical and advanced communications service in the U.S. Virgin Islands. The competitive process

the Commission adopts in the Order will give all qualified applicants the opportunity to present their solutions to be selected in a more neutral way than negotiating only with a few carriers. And these carriers will have the same opportunity as all other participants to demonstrate the objective qualifications of their proposals.

89. The Commission declines to adopt the CPR Community anchor model because the Act mandates access to telecommunications and information services for all consumers in all regions of the United States, not to a limited number of facilities, even for altruistic purposes. The Commission does not see a ready means to incorporate the CPR Community anchor model into an approach that would lead to deployment to all locations in the Territories, and CPR did not explain how its proposal would lead to such deployment.

90. The Commission agrees with AT&T that the budget it adopts for Stage 2, as well as its prior Stage 1 and advance support, adequately address the needs identified in the emergency requests for support that the Commission received closely following the hurricanes. The Commission finds that many of the requests for relief sought in these petitions were adequately addressed by the Commission's quick response following the hurricanes to advance support, by its subsequent decision not to offset that support against future support, and by the disbursement of Stage 1 support. It was reasonable and more efficient for the Commission to act comprehensively determine the appropriate budget, timing, and scope of support for the Uniendo a Puerto Rico Fund and the Connect USVI Fund, rather than acting piecemeal on a range of requests. It is the Commission's expectation that the budgets it establishes, based on the current state of networks in the Territories, are sufficient to promote access to quality telecommunications and information services in Puerto Rico and the U.S. Virgin Islands.

Additionally, the Commission notes that it is now well past the time in which granting emergency or immediate short-term post-hurricane relief would make sense. Therefore, the Commission declines to adopt any additional emergency, advanced, or other short-term support for Puerto Rico or the U.S. Virgin Islands, and they dismiss the emergency petitions filed by PRTC, Viya, Vitelcom, and PRWireless, which seek additional support beyond the adopted overall budget. As to the PRWireless Petition, which is framed as a request for a waiver, the Commission

further concludes that granting a waiver at this point in time would not serve the public interest because, two years after the hurricanes, it is unlikely that PRWireless faces the same immediate post-storm challenges that it set forth as the basis for granting a waiver in its petition, which it filed only weeks after the storms.

91. Last, the Commission rejects various arguments from Tri-County Telephone Association (TCT) that the Commission lacks the authority to create, and should not create, the Uniendo a Puerto Rico Fund and the Connect USVI Fund. Stage 2 support addresses the principle that "[a]ccess to advanced telecommunications and information services should be provided in all regions of the Nation." Further, the principle in section 254(b)(1) requiring the Commission to develop policies that make available "quality" services permits it to support hardening of facilities in storm prone areas. Stage 2 support will "advance[]" universal service in the Territories by ensuring that more Americans have access to quality services that are reasonably comparable to services provided in urban areas, for instance with respect to network reliability. And the Commission's obligation to "preserv[e]" universal service permits it to fund network hardening, as well as any remaining restoration in the context of Stage 2 mobile support.

92. While TCT argues that the introduction of the RESTORED Act shows that Congress thinks the Commission currently lacks authority to fund service restoration, that bill only had one sponsor and never proceeded past introduction and reference to the relevant House committee and subcommittee, so the Commission cannot infer from this bill a sense of Congress's view as a whole. The Commission finds the more reasonable view is that it possesses the requisite authority to adopt Stage 2 support as set forth herein, and it rejects TCT's argument that the bill's introduction weighs against that conclusion.

93. The Commission also disagrees with TCT's contention that because "the high-cost program is based upon § 254(b)(3)," the Commission must offer "evidence that consumers in Puerto Rico and the USVI have experienced higher rates for service than other parts of the country as a result of Hurricanes Maria and Irma" to act. This argument would incorrectly lead the Commission to ignore all of section 254 other than the "reasonably comparable rates" clause of section 254(b)(3), contrary to the Commission's duty to account for all statutory direction and contrary to

longstanding Commission precedent. In the *USF/ICG Transformation Order*, the Commission “address[ed] [its] statutory authority to implement Congress’s goal of promoting ubiquitous deployment of, and consumer access to, both traditional voice calling capabilities and modern broadband services over fixed and mobile networks,” and in doing so specifically cited and relied on sections 254(b), (c), and (e). As set forth in the Order, the Commission has ample authority under section 254 to adopt Stage 2, and it rejects TCT’s unduly constricted view.

94. The Commission also rejects TCT’s various policy-based objections to Stage 2. TCT’s argument that “[w]ere the Commission to dip into USF programs each time communications networks were damaged by a natural disaster, it would cripple the USF” relies on speculation about unknown future events, and is belied by the Commission’s consistent efforts to manage the Fund responsibly, including its efforts to prioritize cost effectiveness in the Order. While TCT contends that other sources of funding (such as the Department of Homeland Security, Federal Emergency Management Agency (FEMA) or philanthropy) would be more apt for recovery efforts than USF, the Fund is directed specifically at deployment of communications networks, and the Commission is the expert agency on communications and have been charged by Congress with “mak[ing] available, so far as possible, to all the people of the United States . . . a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges.” The Commission welcomes and encourages other support efforts, but it has a role to play here consistent with its expertise and statutory responsibilities. Finally, the Commission rejects TCT’s argument that it should not proceed because “the Commission’s willingness to act as an effective insurer of last resort sends a strong signal to carriers . . . that they can skimp on private insurance coverage.” The impact of Hurricane Maria and Irma on the Territories have presented extraordinary circumstances, and carriers should not assume that the Commission would provide support under different circumstances—the Commission is not and will not be an insurer of last resort.

95. The Commission is committed to ensuring that Americans in Puerto Rico and the U.S. Virgin Islands have access to advanced mobile telecommunications networks that provide the same high-speed broadband services that residents of the mainland United States enjoy,

including high-speed 4G LTE and, increasingly, next generation wireless services known as 5G. The Commission recognizes that carriers seeking to deploy advanced mobile services in Puerto Rico and the U.S. Virgin Islands face similar Territory-specific challenges as fixed service providers from economic conditions, insularity, and risk of natural disaster. To facilitate the deployment of modern, high-speed, and storm-hardened advanced telecommunications mobile networks, the Commission adopts a three-year funding period for Stage 2 mobile support that allows facilities-based mobile providers a one-time election of support based on their number of subscribers.

96. For that three-year term, the Commission allocates budgets of \$254.4 million to the Uniendo a Puerto Rico Fund and \$4.4 million to the Connect USVI Fund. More specifically, providers will make concurrent elections for two parts of the budgeted support. First, providers may elect receive up to 75% of the support for which they are eligible in exchange for a commitment to restore, harden, and expand networks using 4G LTE or better technology capable of providing services at speeds of at least 10/1 Mbps. Second, given the power of 5G network capabilities to unleash a new wave of entrepreneurship, innovation, and economic opportunity for communities across the country, providers may also elect to receive up to 25% of the support for which they are eligible in exchange for a commitment to specifically deploy 5G mobile network technology, capable of delivering speeds of at least 35/3 Mbps. By the conclusion of Stage 2, the Commission expects to establish and adopt a competitive funding mechanism for the long-term expansion of advanced telecommunications access and next generation wireless services for the Territories that builds on its experience from its provision of Stage 2 mobile support, the competitive mechanism the Commission adopts here for fixed service, and other competitive mechanisms adopted by them.

97. The Commission adopts its proposal in the *PR-USVI Fund NPRM* to make available and allocate Stage 2 mobile support to facilities-based mobile providers that provided services in Puerto Rico or the U.S. Virgin Islands prior to the hurricanes. For eligible mobile providers that elect to participate in Stage 2, the Commission will allocate Stage 2 mobile support in each territory based on the number of mobile subscribers according to their June 2017 FCC Form 477 data, consistent with its approach to Stage 1.

98. Any eligible facilities-based mobile provider may elect to participate in this opportunity for support over the three-year period the Commission adopts for Stage 2. Providers that are eligible for Stage 2 mobile support under either the Uniendo a Puerto Rico Fund or the Connect USVI Fund will have a one-time opportunity to elect to participate in Stage 2 support. Each provider will make two simultaneous elections. First, it may elect to receive up to 75% of the support for which it is eligible in exchange for a commitment to restore, harden, and expand networks capable of providing 4G LTE or better services. Second, it may elect to receive 25% or more of the support for which it is eligible in exchange for a commitment to specifically spend that support toward deployment of networks capable of providing 5G mobile network technology based-services.

99. Eligible mobile providers may elect to receive Stage 2 support from their respective fund through an election process similar to that used in Stage 1. To participate, a facilities-based mobile provider must, within 30 days of the publication of the Order in the **Federal Register**, either (1) renew the certification it provided to the Commission as part of Stage 1 of the Uniendo a Puerto Rico Fund and the Connect USVI Fund specifying the number of subscribers (voice or broadband internet access service) it served in the Territory as of June 30, 2017 (before the hurricanes); or (2) for any mobile provider that did not submit an election to receive Stage 1 support, submit to the Commission a certification specifying the number of subscribers (voice or broadband internet access service) it served in the Territory as of June 30, 2017 (before the hurricanes), along with accompanying evidence. Providers also must file a copy of the certification and accompanying evidence (if applicable) through the Commission’s Electronic Comment Filing System (ECFS) as well as email a copy to ConnectAmerica@fcc.gov. The Commission will then verify eligibility using various data sources, including FCC Form 477 data. The Commission directs the Bureau to then allocate these amounts among qualifying providers of each territory according to the number of subscribers (voice or broadband internet access service) each served as of June 30, 2017. The Bureau shall make public these allocations via a Public Notice as soon as practicable.

100. Nearly all commenters support Stage 2 support for facilities-based mobile providers that provided service to Puerto Rico and the U.S. Virgin Islands prior to the hurricanes based on

their June 2017 FCC Form 477 subscriber data. The Commission agrees with commenters that the allocation of Stage 2 mobile support for the restoration, hardening, and expansion of mobile network infrastructure will be best accomplished by relying on subscriber data on the 2017 FCC Form 477. By making pre-hurricane facilities-based mobile providers eligible for Stage 2 support, the Commission will be able to quickly restore, harden, and expand service. This necessary and targeted high-cost mobile support will help rebuild damaged networks, harden against future natural disasters, and improve and expand mobile services through the installation of 4G LTE or better technology in Puerto Rico and the U.S. Virgin Islands in a timely and cost-effective manner.

101. Although the Commission uses 2018 FCC Form 477 data for fixed support, it uses pre-hurricane subscriber data from 2017 FCC Form 477 to allocate mobile support as a means to account for its goals to restore and harden mobile networks damaged by the hurricanes. In this regard, pre-hurricane subscriber data, as reflected in the June 2017 FCC Form 477 data, provides an objective measure of available data to approximate relative networks to achieve the Commission's goals. The Commission further notes that its review and analysis of the record does not reflect the entrance of new mobile service providers in Puerto Rico and the U.S. Virgin Islands, so the Commission does not need to deviate from the use of 2017 FCC Form 477 subscriber data to allocate mobile support. The Commission concludes that limiting provider eligibility to facilities-based providers that provided mobile services prior to the hurricanes best facilitates its goals for the full restoration and hardening mobile service networks that were devastated by the hurricanes, and more readily facilitates the rapid, efficient deployment of 4G LTE and 5G networks in the Territories.

102. The Commission declines to adopt Viya's proposal to allocate mobile support based on the geographic area of a provider's network. Specifically, Viya proposed that "Stage 2 mobile funding should be awarded pro rata to each eligible mobile carrier based on the relative number of square miles that the carrier served prior to the hurricanes, as shown in the June 2017 Form 477 shapefiles filed by the carriers." However, providers in Puerto Rico and the U.S. Virgin Islands do not currently employ an industry-wide standard methodology to calculate and report network coverage as part of their Form 477 filings. Consequently, the

Commission does not have consistent, reliable, and precise geographic data needed to allocate mobile support to providers in the Territories. Rather than using network area reporting that varies among providers, the Commission concludes that allocating mobile support using subscriber data allows it to reach as many consumers as possible and as quickly as possible in the Territories with its limited budget and thus serves the best interest of the residents of Puerto Rico and the U.S. Virgin Islands in Stage 2.

103. *Support Amounts.* Each eligible mobile provider that elects to participate in Stage 2 of the Uniendo a Puerto Rico Fund or the USVI Connect Fund will receive monthly installments of its pro rata share of mobile support amortized over the three-year support period adopted in the Order. Each recipient's pro rata share will be adjusted according to its election to receive or decline support for 4G LTE and/or 5G deployment.

104. Because the Commission adopts Stage 2 of the Uniendo a Puerto Rico Fund and the Connect USVI Fund for mobile providers as comprehensive substitute mechanisms for mobile high-cost support, providing certainty and stability in those areas for the next three years, carriers that elect not to participate in Stage 2 will receive only transitional legacy mobile support. The Commission sets transitional support amounts only for existing recipients of high-cost support that do not elect to participate in Stage 2. Any such providers will receive one-half of their legacy mobile support, excluding prior emergency and Stage 1 support to mobile providers, amortized for the first 12-month period following the public notice announcing the start of the Stage 2, and no legacy support for mobile services thereafter. The Commission believes that an expeditious phase-down of legacy support is warranted since it is not conducting a competitive process for mobile high-cost support, and all carriers will have the opportunity to participate in this substitute mechanism. Moreover, this phase-down will give a predictable glidepath as the Commission transitions from one support mechanism to another while preserving its finite universal service funds to begin funding mobile service under the terms of Stage 2.

105. The Commission adopts the proposed total budget over a three-year period of \$258.8 million in mobile support for the Uniendo a Puerto Rico Fund and the Connect U.S. Virgin Islands Fund in light of the unique challenges mobile providers face following Irma and Maria and to

provide access to advanced telecommunication services, including 5G wireless services. Given that two years have passed since Maria and Irma and based on the progress carriers have made in restoring their networks, the Commission makes clear that Stage 2 mobile support is not simply to restore mobile network coverage to prior service levels. The Commission intends for Stage 2 to foster greater access to advanced telecommunications for the Territories, including access to both 4G LTE and 5G technologies.

106. Current high-cost support directs approximately \$78.9 million each year to mobile services in Puerto Rico and over \$67,000 each year to mobile services in the U.S. Virgin Islands. The Commission's budget increases the amount of support to the Territories by \$7 million per year over three years to ensure that providers have sufficient funds to restore, harden, and expand voice and broadband-capable networks. The Commission therefore establishes Stage 2 of the Uniendo a Puerto Rico Fund for mobile networks at up to \$254.4 million over a three-year period and establish the Connect USVI Fund Stage 2 budget for mobile networks at up to \$4.4 million over a three-year period. This budget reflects an increase of approximately \$17.7 million over three years in Puerto Rico and approximately \$4.2 million over three years in the U.S. Virgin Islands compared to pre-existing frozen support.

107. The Commission declines requests for additional mobile support beyond the budget. In reaching the Commission's decision in the Order, it believes that the Stage 2 mobile support they allocate—in addition to the \$71.74 million in extra mobile support previously provided—will be sufficient to allow facilities-based mobile service providers to restore any lingering damaged or destroyed network facilities and make meaningful progress to harden their networks and expand the availability of voice services and modern, high-speed broadband services. In several instances, carriers have reported complete or near-complete restoration of their mobile networks following the hurricanes, suggesting that directing Stage 2 support only to restoration would be too limited a goal. For instance, PRTC informed the Commission that it has fully restored prior service levels and, in fact, added to its mobile network facilities. Additionally, AT&T reports that despite significant challenges, it has restored much of its network. The support amount the Commission dedicates thus reflects its priorities to complete any

remaining rebuilding and promote the deployment and hardening of modern, high-speed mobile networks in a fiscally responsible manner over a three-year term.

108. Based on the record and the restoration that mobile providers have achieved following Hurricanes Irma and Maria, the Commission directs that 75% of Stage 2 mobile support be allocated for the restoration, hardening, and expansion of 4G LTE or better mobile networks, and it directs that the remaining 25% of Stage 2 mobile support be allocated specifically for the deployment of 5G technology in the Territories. Commenters broadly support the deployment of 4G LTE, and the Commission finds that requiring 4G LTE as its minimum standard for the majority of support for funded deployments ensures that finite universal service funds are used efficiently to provide consumers access to robust mobile broadband service in the near and long term that is comparable to 4G LTE network-based service being offered in urban areas. The Commission further specifically direct a portion of Stage 2 mobile support to the deployment of 5G to ensure that Puerto Rico and the U.S. Virgin Islands are not left behind as carriers increasingly invest in deploying 5G mobile network technology. By supporting the deployment of 5G networks, the Commission encourages the deployment of the types of facilities that will best achieve the principles set forth in section 254(b) of the Act, including the availability of quality services, the deployment of advanced services, and access by consumers in insular areas and low-income consumers to reasonably comparable services. In addition to furthering the universal service principles of 254(b), the Commission believes that encouraging the transition towards 5G infrastructure deployment will help unleash entrepreneurship, innovation, and economic opportunity for the Territories.

109. Consistent with the Commission's prior round of support in Stage 1, it retains the pre-existing mobile support allocations and allocate about 80% of the proposed additional support for mobile services to Puerto Rico and about 20% to the U.S. Virgin Islands in light of the changed circumstances resulting from the destruction to networks caused by the 2017 hurricane season. Several commenters support this decision. The Commission expects that the amount of support available will enable eligible mobile carriers to restore, harden, and expand mobile networks over the next

three years, to at least pre-hurricane network performance levels if not better, at which point it will revisit the amount of support necessary to further expand and/or harden mobile service available in the Territories.

110. In reaching this conclusion, the Commission finds its allocation between fixed and mobile services to be appropriate. Except for the Commission's increase in fixed support to Puerto Rico, this relative allocation is the same that it used in Stage 1, and the allocation similarly reflects the greater costs of deploying fixed services and its expectation that improvements to fixed network backhaul will facilitate improved mobile services. The Commission notes that the budget it adopts increases annual mobile support to the U.S. Virgin Islands by almost twenty-two times the prior level—this large relative increase reflects its view that the existing, very modest level of mobile support for the U.S. Virgin Islands would be insufficient to support meaningful progress toward restoration, hardening, and expansion of 4G LTE and 5G mobile technology-based services during Stage 2 in light of the challenges of serving the Territory.

111. *Term of Support.* Consistent with the *PR-USVI Fund NPRM*, the Commission concludes that a three-year period is appropriate for Stage 2 support. The Commission first notes that providers did not submit specific comments proposing a different time period for Stage 2 mobile support, and only BBI explicitly supported the proposed three-year period. The Commission expects the three-year period to benefit it by allowing time for it to develop further procedures and standards for mobile voice and broadband service that may be applied to a future long-term Stage 3 process to allocate support for mobile services in the Territories. The Commission anticipates issuing a further notice of proposed rulemaking to seek input on when and how to implement a long-term Stage 3 mobile support process. The Commission's ultimate goal for mobile support is to adopt a Stage 3 mobile support mechanism to facilitate the deployment and maintenance of high-speed mobile broadband networks throughout Puerto Rico and the U.S. Virgin Islands. Although the Commission shifts to a competitive mechanism now for fixed Stage 2 support, the Commission believes it would be premature to adopt a long-term process for mobile support for several reasons. In developing a Stage 3 mobile support mechanism, the Commission will benefit from evaluating competitive models,

including the fixed Stage 2 competitive allocation mechanism in this proceeding, as possible models upon which to build. The Commission will also benefit from evaluating initial progress in deployment of high-speed 5G and 4G LTE networks in the Territories during Stage 2, and it will benefit from evaluating ongoing development of the 5G standard. While the Commission seeks to avoid delay, these factors—which do not apply to fixed support—warrant a more incremental approach to mobile at this time. The Commission therefore agrees with AT&T that in the context of mobile support, it should divide Stage 2 of the Uniendo a Puerto Rico Fund and Connect USVI Fund into two stages.

112. *Eligible Areas.* The Commission concludes that all areas of Puerto Rico and the U.S. Virgin Islands will be eligible for mobile high-cost support. Consistent with section 254(e) of the Act and the Commission's rules, the Commission believes making all areas eligible allows support to be used anywhere it is necessary for any remaining restoration efforts as well as new deployments, network upgrades, and storm hardening and resilience, thereby supporting the return of service and competition in each territory. Some mobile carriers in the Territories continue to work toward full restoration, and all face challenges in expanding and hardening their communication networks. For example, AT&T states that during the proposed Stage 2 period, it will continue “backhaul restoration efforts includ[ing] maximizing the population served by buried infrastructure, hardening above-surface infrastructure where possible, diversifying key fiber routes, and expanding backup microwave backhaul capabilities.” Viya states that Stage 2 mobile “funding is vital both to complete the restoration of wireless telecommunications networks in the USVI and for the hardening of mobile networks against damage caused by the annual hurricane seasons in future years.” Likewise, PRTC states that support “will be critical to . . . make [its network] more resilient to future natural disasters.” Facilitating network hardening is also appropriate in light of the heightened risk of damage due to disasters faced by and insular nature of the Territories, and the Commission thus finds it prudent and in the public interest to account for the heightened possibility of damaging future natural disasters in the Territories. In addition, the heightened economic challenges faced by the Territories, which were amplified by Irma and Maria, justify

ongoing support with respect to expanding deployment of high-speed mobile networks, since availability of quality, affordable mobile services promotes economic development. The Commission therefore gives support recipients certain flexibility in their businesses to determine where hardening and/or expansion will be most impactful, including by taking into account post-hurricane population shifts, subject to the limitation that support must be used for high-speed 4G LTE or 5G networks, as specified. After the three-year Stage 2 period, the Commission expects to reevaluate whether conditions in the Territories have recovered such that it can focus support in areas where market forces alone cannot support the provision of mobile services.

113. *Remaining Restoration.* The Commission directs Stage 2 support principally toward new and improved deployment of hardened and high-speed mobile networks, and many commenters state that their network coverage restoration to prior service levels exceeds the restoration benchmarks it adopts in the Order. Nevertheless, the Commission recognizes that some restoration of network coverage area to pre-hurricane levels may still be necessary. Therefore, at a minimum, the Commission requires Stage 2 support recipients to commit to a full restoration of their pre-hurricane network coverage areas as reported on their June 2017 FCC Form 477 and at reasonably comparable levels to those services and rates available in urban areas. The Commission agrees with commenters that it should require recipients to fully restore service to the pre-hurricane coverage area levels because of the critical role telecommunications networks play in the recovery and economic growth and prosperity of Puerto Rico and the U.S. Virgin Islands. In geographic areas where continued restoration is needed, the Commission requires recipients to restore the network coverage area using 4G LTE or better technologies that meet the minimum service requirements in the Order. In cases where a Stage 2 support recipient has completed the restoration of its network to its pre-hurricane coverage area prior to the receipt of Stage 2 support, the Commission requires support to be used solely for hardening, upgrading, or expanding 4G LTE and 5G networks that meet the minimum service standards specified in the Order.

114. The Commission concludes the full restoration of mobile networks is integral to rebuilding communities, serving the public safety needs of the

islands, and providing access to telecommunication and information services to consumers available prior to the hurricanes. Moreover, the Commission notes that the full restoration of network service coverage pre-hurricane serves as an essential baseline for determining unserved areas of Puerto Rico and the U.S. Virgin Islands as the Commission moves forward and make voice and broadband service universally available to all consumers. The Commission will use the mobile network coverage area to determine how best to structure a future stage to allocate long-term mobile support in a tailored and cost-effective manner.

115. *Appropriate Use of Support.* The Commission reaffirms that universal service support should be targeted towards 4G LTE and better technologies in order to provide the Territories with high-quality mobile service. The Commission has observed that consumers increasingly rely on greater performing mobile networks, including 4G LTE, in order to take advantage of the significantly better performance characteristics of these networks, including faster data transfer speeds while using the web or web-based applications. And, as noted in the Order, carriers are rapidly investing in 5G deployment across the country. Directing support in Stage 2 towards 4G LTE and 5G technologies will ensure that consumers in Puerto Rico and the U.S. Virgin Islands are not relegated to substandard mobile service in the near and long-terms. To help achieve the Commission's goal to advance 4G LTE and 5G technologies, it emphasizes that Stage 2 mobile support may not be used towards restoration, hardening, and expansion of 3G or lower mobile technologies. The Commission thus concludes the use of Stage 2 mobile support for 4G LTE and 5G technologies will serve the public interest to ensure universal service for all residents of Puerto Rico and the U.S. Virgin Islands. To promote the efficient use of support and encourage high-speed deployment, the Commission directs that carriers use authorized support to deploy, harden, or expand networks consistent with the 4G LTE and 5G parameters in the Order.

116. *Minimum Service Requirements for 4G LTE Support.* For the portion of support directed to restore, harden, or expand networks capable of providing 4G LTE or better service (*i.e.*, the allocation of up to 75% of the provider's eligible support amount), the Commission adopts minimum service requirements that define the baseline 4G LTE performance standard for Stage 2 mobile support recipients in Puerto Rico

and the U.S. Virgin Islands. The Commission agrees with Viya that it should adopt minimum service requirements for speed, latency, and usage consistent with its advancement of 4G LTE technology or better. The Commission therefore requires support recipients to meet minimum baseline performance requirements for data speeds, data latency, and data allowances for at least one plan that carriers offer where carriers have deployed 4G LTE, or will deploy or upgrade to 4G LTE networks or better using Stage 2 support as critically important to benefit the Territories' recovery. The data speed of the network for areas in which the recipient used Stage 2 support must be at least 10 Mbps download speed or greater and 1 Mbps upload speed or greater by the end of the three-year support term. For latency, the required measurement must have a data latency of 100 milliseconds or less round trip by the end of the three-year support term. In addition, support recipients must offer at least one service plan that includes a data allowance of at least 5 GB. A support recipient's service plan with the required data allowance must be offered to consumers at a rate that is reasonably comparable to similar service plans offered by mobile wireless providers in urban areas.

117. In adopting minimum performance standards, the Commission declines to adopt AT&T's proposal to implement 4G LTE service without minimum speed and latency requirements or, at most, requiring minimum speed and latency only for a small portion of the network in each territory. First, the record reflects that certain carriers currently operate 4G LTE mobile wireless networks that cover large geographic areas. Moreover, targeting support to measurable performance requirements will ensure that the Commission does not relegate the Territories to substandard service that is not comparable to advanced mobile services. The Commission therefore concludes that requiring minimum performance standards for the use of Stage 2 support for new or upgraded 4G LTE facilities or better will best serve the goals of universal service for consumers living outside urban areas of Puerto Rico and the U.S. Virgin Islands.

118. *Minimum Service Requirements for 5G Support.* Consistent with the Commission's approach in the Order, for the portion of support directed to the deployment of 5G networks (*i.e.*, the allocation of up to 25% of the provider's eligible support amount), it adopts minimum service requirements that

define the baseline 5G performance standard for Stage 2 mobile support recipients in Puerto Rico and the U.S. Virgin Islands. Specifically, as the Commission stated in the Order, it establishes as a minimum the 5G–NR technology standards specified by Release 15 and require providers to meet these specifications as part of the optional deployment of 5G technology. This is consistent with the Commission’s approach in the *Digital Opportunity Data Collection*, 84 FR 43705, August 22, 2019. In addition, deployments of 5G technologies made with Stage 2 support must provide a data speed of at least 35/3 Mbps. The Commission finds it reasonable to require at least 35 Mbps as a downlink speed because the minimum performance requirements of 5G technology, using a typical 10 MHz channel bandwidth, including other system efficiencies such as Multiple Input Multiple Output (MIMO) should permit service providers to meet this speed requirement. Further, the provider must offer a plan with rates that must be reasonably comparable to similar service plans offered by mobile wireless providers in urban areas. The Commission declines to adopt further specifications at this time because it recognizes that 5G is a new and developing technology.

119. *Return of Support.* The Commission will hold mobile providers to their specific deployment commitments in exchange for their election and receipt of all Stage 2 mobile support. A mobile provider that fails to use Stage 2 high-cost support towards its commitment for networks capable of providing 4G LTE or better services as specified herein and/or towards its specific deployment of 5G mobile network technology-based services as specified herein shall return the unused support to the Administrator within 30 days following the end of the three-year support period. The amount of support that must be returned shall be an amount equal to the difference between the amount spent on eligible expenses towards its commitment and the full amount of its elected commitment of up to 75% or 25%. For example, a mobile provider that fails to meet its commitment to use 25% of the Stage 2 mobile support for which it is eligible for 5G deployment shall return that amount or the difference between the amount spent on 5G deployment and 25% of the Stage 2 mobile support for which it is eligible. In addition, a mobile provider that elects to receive 75% of its eligible support in exchange for its commitment to provide networks

capable of providing 4G LTE or better services and fails to use the support towards eligible expenses to meet its commitment must return any unspent amount of support to the Administrator.

120. The Commission adopts annual reporting requirements that will enable it and USAC to ensure compliance with section 254 of the Act and to monitor the ongoing progress and performance of the Uniendo a Puerto Rico Fund and Connect USVI Fund recipients by interpreting §§ 54.313 and 54.320 of the Commission’s rules to apply to Stage 2 mobile support.

121. Consistent with the Commission’s approach in other proceedings, it adopts reporting of an interim and final benchmarks for the full restoration of mobile network coverage and service requirements detailed in the Order, which will enable the Commission and USAC to monitor the ongoing progress and performance of all mobile support recipients. Specifically, to monitor the progress of restoration, the Commission declines to adopt the *PR–USVI Fund NPRM’s* proposal for submission of biannual coverage maps and instead will require submission and certification from support recipients of one annual network coverage map at the conclusion of the second and third year of the support period. The Commission requires that each recipient demonstrate and certify to at least 66% of its pre-hurricane network coverage by the end of year two of the Stage 2 support period, and at least 100% of its pre-hurricane coverage, if not more, by the end of the three-year support period.

122. The Commission will determine the restoration of a provider’s network coverage area based on FCC Form 477 network coverage data reported by mobile providers. The Commission believes that Form 477 network coverage data, including each support recipient’s shape files, will provide the best comparison for determining whether mobile providers have met their network coverage area milestones. The Commission expects each support recipient to determine its network coverage data using the same methodology it used for the June 2017 FCC Form 477 so the Commission will be able to conduct an “apples to apples” comparison when analyzing whether the provider has in fact met its Stage 2 milestones. The Commission also requires recipients to submit evidence of network coverage areas, including electronic shapefiles site coverage plots illustrating the area reached by mobile services; a list of census blocks reached by mobile services; and results of the provider’s drive, drone, and/or scattered

site tests. The Commission directs the Bureau to define more precisely the content and format of the information required to be submitted by recipients.

123. The Commission also adopts a reporting requirement to monitor the ongoing progress for network hardening by providers. Specifically, the Commission adopts AT&T’s suggestion that it should require recipients of Stage 2 mobile support to identify on a map where they have undertaken hardening activities in the past year. To facilitate the Commission’s evaluation of the information that the map contains, it also requires each support recipient to provide, 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.

124. Like other high-cost recipients that are required to meet milestones, the Commission will require each recipient of Stage 2 mobile support through the Uniendo a Puerto Rico Fund and the Connect USVI Fund to file certifications that it has met its milestones, including a certification of the minimum service requirements as provided in the Order at the end of the third year of the support period. As provided in the Order, a provider may demonstrate the target network coverage based on current FCC Form 477 standards; however, the Commission will require that network coverage reporting requirements conform to any other generally applicable mobile wireless mapping standards that it subsequently adopts. The Commission also requires each provider to submit test results verifying coverage along with their certification. The Commission will require that the certification of the minimum service requirements and the test results in verifying coverage, obtained via a methodology selected by the carrier and approved by the Bureau, demonstrate network speed and latency that meet or exceed the minimum service requirements the Commission adopts. The Commission directs the Bureau to define more precisely the content and format of the information required to be submitted by recipients, and it directs USAC to verify the representations in the submissions.

125. The Commission further requires an annual certification for mobile providers that elect to receive up to 25% of their available support for the deployment of 5G technology. Each participant must specifically certify its use of Stage 2 support related to the deployment of 5G technology to ensure compliance with its commitment. As part of its certification, the Commission

requires each provider, no later than 30 days after the end of each 12-month period of Stage 2 support, to (1) report the total costs incurred and total amount of Stage 2 support spent related to the deployment of 5G technology during the preceding 12-month period; and (2) describe in detail how it used the support for deployment of 5G technology.

126. Finally, as with all ETCs, high-cost recipients of Stage 2 mobile support from the *Uniendo a Puerto Rico* Fund and the *Connect USVI* Fund will be subject to ongoing oversight to ensure program integrity and to deter and detect waste, fraud, and abuse. All ETCs that receive high-cost support are further subject to compliance audits and other investigations to ensure compliance with program rules and orders. The Commission concludes that all mobile support recipients will be subject generally to the same audit requirements as recipients of *Connect America* Fund Phase II support, fixed Stage 2 support in this proceeding, and all other high-cost support. Moreover, the Commission's decision in the Order does not limit its ability to recover funds or take other steps in the event of waste, fraud, abuse, or misrepresentations.

127. In addition to the criteria the Commission adopts in the Order, it also adopts the following requirements for any winning applicants seeking Stage 2 fixed support for voice and broadband service and mobile providers electing to receive Stage 2 support. The Disaster Preparation and Response Plan and Disaster Information Reporting System (DIRS) requirements set forth in the Order apply to all Stage 2 fixed and mobile support recipients.

128. *Disaster Preparation and Response Plan.* Helping to protect fixed and mobile networks in Puerto Rico and the U.S. Virgin Islands against future hurricanes and other disasters is of vital importance, and the Commission cannot account for all forms of disaster preparation via objective scoring criteria in its fixed competitive proposals process (nor do the Commission employ such a process for Stage 2 mobile support). To ensure that Stage 2 support recipients have a holistic plan to prepare for and respond to possible disasters, the Commission will require each recipient of Stage 2 fixed and mobile support to create, maintain, and submit to the Bureau for its review a detailed written plan (a "Disaster Preparation and Response Plan") that describes and commits to the methods and procedures that it will use, during the period in which it receives Stage 2 support, to prepare for and respond to

disasters in Puerto Rico and/or the U.S. Virgin Islands. The Commission specifically requires applicants to describe in the Disaster Preparation and Response Plan in detail how they will meet five criteria: (1) Strengthening Infrastructure; (2) Ensuring Network Diversity; (3) Ensuring Backup Power; (4) Network Monitoring; and (5) Emergency Preparedness. The Commission explains these criteria in detail in the Order. The Commission requires applicants to document in detail in the Disaster Preparation and Response Plan their methods and processes for achieving each of these goals, identify personnel responsible for compliance, and conform their actions to their written documentation.

129. A Stage 2 fixed support applicant must submit its Disaster Preparation and Response Plan to the Bureau for review and approval along with the provider's application, and a mobile provider electing Stage 2 support must submit its Disaster Preparation and Response Plan for review and approval along with its election of support. The Commission directs the Bureau to approve the documentation if it is complete and thoroughly addresses how the carrier will meet each of the criteria it identifies. If the Bureau identifies deficiencies in the Disaster Preparation and Response Plan, the Commission directs the Bureau to provide detailed written notification of the deficiencies to the carrier and withhold authorization to receive support until the support recipient has cured the deficiencies. The Commission emphasizes that support recipients may choose to develop their Disaster Preparation and Response Plans in a number of ways to meet the flexible criteria established here. Recipients shall materially comply with the representations in the Disaster Preparation and Response Plan, once approved.

130. All Stage 2 support recipients must update their Disaster Preparation and Response Plan when they make material changes to internal processes or responsible staff and share the updated Disaster Preparation and Response Plan with the Bureau within 10 business days. The Commission also will require support recipients to certify annually to USAC that they have recently reviewed the Disaster Preparation and Response Plan and considered whether any changes or revisions were necessary. The Commission directs the Bureau to provide additional guidance to applicants regarding the timing, submission, and format of the required Disaster Preparation and Response Plan.

131. The Commission finds it is appropriate to require and evaluate Disaster Preparation and Response Plans for Stage 2 support applicants because, as the Commission has noted, infrastructure in the Territories is particularly vulnerable to catastrophic failure (e.g., due to isolation and topography). The Commission allows carriers flexibility to describe how they address the criteria it specify, rather than adopt specific mandates, because the Commission recognizes that disaster preparation and recovery challenges are often unique to each carrier. Should a disaster similar to Maria and Irma occur, improvements to disaster preparation and recovery practices could mitigate at least a portion of the billions of dollars of damage to communications networks that the Territories experienced as a result of that disaster. The Commission acknowledges that there are costs associated with hardening efforts and with obtaining the Bureau's approval. However, even if those costs are substantial, the benefits of the requirements the Commission adopts in terms of potential saved lives and avoided economic devastation are even greater in light of the heightened risks faced by the Territories and the potential for devastation. The Commission also believes that the specific measures it will evaluate are warranted. For instance, the Commission previously found that after the 2017 hurricane season, "unlike other affected areas, Puerto Rico and the U.S. Virgin Islands have struggled to restore electrical power" and that there was a "continued lack of commercial power and long-term reliance on backup generators"—showing the importance of ensuring backup power. Similarly, monitoring network performance and preparing for emergencies with the intent of maintaining continuity of operations are both common-sense steps to help ensure that networks will be more likely to withstand harm or be restored quickly after disasters. Finally, the flexibility the Commission allows will mitigate the costs of this requirement compared to a more rigid and prescriptive approach.

132. *Mandatory Participation in the DIRS.* The Commission also conditions Stage 2 funding on recipients' agreement to perform mandatory DIRS reporting. DIRS is an efficient, web-based system that communications companies, including wireless, wireline, broadcast, and cable providers, can use to report communications infrastructure status and situational awareness information during times of crisis. While DIRS reporting has been

voluntary, in practice there is strong industry participation. The Commission determines whether to activate DIRS in conjunction with FEMA and announce the areas that will be covered to participating providers via public notice and email. DIRS is and will be a valuable resource for providing situational awareness of outages to industry and Federal, state, and local agencies.

133. Following normal Commission protocol, the Commission will continue to activate DIRS and notify providers of its reporting schedule, typically in advance of an expected impending disaster event. Also pursuant to normal Commission protocol, DIRS reporting obligations will typically begin prior to onset of a disaster event, with reports due each time a provider's restoration status changes. The only difference from ordinary Commission protocol is that DIRS reporting will be mandatory for Stage 2 support recipients for the duration of the support. Note, however, that the Commission will not impose a penalty or sanctions if reporting deadline(s) cannot be met for reasons reasonably beyond a participant's control. In that case, the Commission requires instead that providers begin and/or resume DIRS reporting according to the reporting schedule as soon as they are reasonably able to do so. This approach ensures that participants can dedicate their resources to addressing network outages and basic communications needs when it would be unreasonable for them to divert these resources to DIRS reporting. Stage 2 funding recipients that fail to meet this mandatory DIRS reporting obligation may be subject to penalties and sanctions through the withholding of Stage 2 funds and/or disqualification from participating in future Stage 3 mobile support.

134. Mandatory DIRS reporting for Stage 2 funding recipients will increase carriers' accountability by allowing the Commission to track their recovery efforts, which it expects will lead to improved hardening efforts. Moreover, DIRS reporting during prior natural disasters has assisted not only this agency, but also the Commission's Federal, state, and local partners, including during Hurricanes Irma and Maria, aiding in recovery efforts. While the Commission has not made DIRS reporting mandatory elsewhere, it believes mandatory reporting for Stage 2 funding recipients is justified by the Territories' heightened risk of natural disaster, insularity, and specific challenges with disaster preparation and recovery. It also is warranted because "during Hurricane Maria, the major

incumbent local exchange carrier and cable providers in Puerto Rico and the USVI did not provide detailed information in DIRS," hindering effectiveness. The Commission does not require daily reporting via DIRS, and instead it requires only updates on changes in restoration status when they occur. This approach alleviates concerns some commenters raised related to administrative burden. Moreover, imposing no penalty or sanction for a provider's reasonable failure to report, as outlined in this document, addresses concerns about the infeasibility of reporting. The Commission finds that the public benefit of mandatory DIRS reporting for Stage 2 funding recipients overwhelmingly outweighs any concerns carriers have about the potential burdens of reporting during post-disaster recovery efforts.

135. *Cooperation Regarding Centralized Coordination.* In addition to complying with any local legal mandates regarding information sharing, the Commission also expects Stage 2 funding recipients to make every effort to cooperate with local authorities (e.g., PRTRB and the U.S. Virgin Islands' PSC) in sharing information about proposed and actual construction projects, both during Stage 2-funded deployment and during any future post-disaster recovery efforts. Cooperation will allow other entities an opportunity to request joint access and cooperate on joint construction thus facilitating efficient use of the Commission's Stage 2 support and expediting restoration.

136. *Wireless Resiliency Cooperative Framework.* Although the Wireless Resiliency Cooperative Framework is not mandatory, the Commission strongly encourages Stage 2 support recipients to continue to comply voluntarily. The Commission expects that compliance with the Framework would carry many benefits and commenters were in consensus that the flexibility of the Framework allowed wireless carriers to quickly and effectively tailor response efforts to individual communities without undue administrative delays. As the Commission considers longer-term Stage 3 support for mobile providers, it expects the Commission will evaluate again whether to require support recipients to commit to compliance with the Framework.

137. *Reasonably Comparable Rates.* Stage 2 recipients must meet the same reasonably comparable rates standard for recipients as the Commission requires of all high-cost recipients, consistent with its proposal in the *PR-USVI Fund NPRM*. The Commission

considers rates reasonably comparable if they are "at or below the applicable benchmark to be announced annually by public notice issued by the Wireline Competition Bureau." Although PRTC and Viya argue that additional funds are needed to cover their costs to rebuild, neither carrier provided evidence that rates in Puerto Rico and the U.S. Virgin Islands are substantially higher than in the contiguous United States. TCT states that there is little if any evidence of higher rates in the Territories. The evidence the Commission has from the Urban Rate Survey suggests that urban voice rates in Puerto Rico may be lower than the mainland urban average and that the urban broadband rates in Puerto Rico may be higher than on the mainland, but still within the comparability benchmarks. Accordingly, the Commission finds no reason to deviate from the typical rates standard.

138. *No Double Recovery.* The Commission adopts the same protections against double recovery as it did with Stage 1 support. The Commission agrees with Free Press that support recipients should not be entitled to support for the same losses reimbursed by insurance funds. Therefore, to protect against duplicative recovery and guard against waste, fraud, and abuse, Stage 2 support recipients may not use their support for costs that are (or will be) reimbursed by other sources, including Federal or local government aid or insurance reimbursements. Further, carriers are prohibited from using Stage 2 support for other purposes, such as the retirement of company debt unrelated to eligible expenditures, or other expenses not directly related to fulfilling the obligations for support recipients set forth in the Order.

139. *Other Disaster Preparation and Response Requirements.* At this time, the Commission declines to adopt additional specific obligations as a condition of receiving Stage 2 support, such as requiring compliance with TIA-222-H standards or any other industry standards or best practices promulgated by the FCC's Communications Security, Reliability and Interoperability Council. The Commission does not want to be unduly prescriptive in how carriers manage their networks or operations. The Commission also declines to adopt proposals outside the scope of the Commission's authority and expertise, such as a Commission-created local building or manufacturing industry in Puerto Rico or a comprehensive island-wide disaster recovery and contingency plan to be supervised by the Commission. While the Commission

appreciates the role of first-responders and emergency services, hospitals, and local organizations, particularly in the aftermath of a natural disaster, it declines to require specified entities to receive priority access to communications networks in the context of this proceeding. The Commission can more uniformly and effectively address any such issues in proceedings regarding priority communications nationwide.

III. Order on Reconsideration

140. The Commission also takes this opportunity to dispose of two petitions related to *Uniendo a Puerto Rico Fund* and *Connect USVI Fund* advance support and Stage 1 support.

141. The Commission denies WorldNet's request to obtain support equal to the amount of advance support it declined. The Commission recognizes that WorldNet acted with incomplete information, because it declined the advance support at a time when the Commission had stated that the advance support would be offset by future support, but the Commission later decided to treat the advance support as a one-time payment that would not be offset. The Commission must be responsible stewards of the Fund, however, and will not award funding meant for immediate post-hurricane relief after the immediate period has ended.

142. *Discussion.* The Commission denies WorldNet's petition. First, to the extent WorldNet seeks clarification of the *2018 PR-USVI Fund Order*, 83 FR 27515, June 13, 2018, the Commission notes that the Order stated that WorldNet would continue to receive its monthly frozen support and did not make any other specific mention of WorldNet, so it is clear the Commission did not confer any additional benefit on WorldNet.

143. As to WorldNet's reconsideration request, the Commission's statutory obligation is to act as responsible stewards of the Fund. Therefore, the Commission must provide support only for specific and statutorily permissible purposes. In the *2017 Hurricane Funding Order*, the Commission provided advance support for the express purpose of injecting additional resources into immediate restoration after the hurricanes. The Commission measured this period of immediate need as seven months, ending with the April 2018 payments. Payment to WorldNet following the conclusion of that immediate need period would not serve the time-sensitive purpose of the support. It was WorldNet's own determination not to accept the

accelerated financial assistance for large repairs and immediate restoration of its essential communications. WorldNet does not dispute that its petition was filed in June 2018, following the immediate need period and only after the Commission had decided not to offset the support. Further, in that petition, WorldNet made no showing that it was still in the process of restoring its network other than to aver that the lack of support is an "undue disadvantage" to WorldNet and its customers. WorldNet now provides information that it claims supports its entitlement to the advanced funding, specifically that it has not recovered all of its costs to restore and repair its network and that it anticipates significant additional costs to further harden its network against future disasters. While the Commission understands the financial hardship that continued restoration and hardening presents for WorldNet, those challenges are shared by other carriers in the Territories, and the fact that work still remains does not justify the provision of time-restricted support after that period has passed. Moreover, WorldNet received over \$1.3 million in Stage 1 support for restoration of its network in August 2018. Therefore, the Commission finds that WorldNet was aware of its options for obtaining high-cost support after the hurricanes and, while it may not have covered all costs, received significant support for restoring its facilities and service.

144. Last, despite its argument, WorldNet is not being distinguished or disqualified from receiving any benefit offered to the providers in Puerto Rico by the *2017 Hurricane Funding Order*. WorldNet had the same opportunity as every other eligible carrier to elect support; it simply elected not to receive the advance funds within the timeframe identified in the *2017 Hurricane Funding Order*. The Commission determined that the pace of restoring critical communications networks would have only been further delayed by offsetting advance support. The Commission's decision to change course and decline to offset the support against future disbursements is entirely within its authority, and such decisions do not result in any obligation by the Commission to retroactively cure the consequences of its decision. When WorldNet declined to take advance funds, that support was repurposed by the Fund, and is no longer available for disbursement. Although the Commission understands WorldNet lost out on an opportunity for additional restoration support, it fails to articulate

compelling grounds for reconsideration, and its responsibility to use the Fund efficiently outweighs the fairness-based justification that WorldNet sets forth.

145. The Commission denies the petition for reconsideration of Tri-County Telephone Association, Inc. (TCT) requesting the Commission revisit several of its decisions in the *2018 PR-USVI Fund Order*. The Commission finds the petition fails on the merits, and the Commission affirms its decision to issue Stage 1 support immediately.

146. *Discussion.* The Commission finds it was not required to undertake notice and comment for Stage 1 support and provided acceptable justification for doing so. Specifically, the *2018 PR-USVI Fund Order* stated that using notice and comment procedures for the interim and one-time relief would delay its effectiveness, would be impracticable and contrary to the public interest. It further reasoned that due to the emergency situation and the devastation to communications networks caused by the hurricanes, the sooner providers received additional funds, the sooner service could be restored to the people of Puerto Rico and the U.S. Virgin Islands. Accordingly, it invoked the good cause exception of the Administrative Procedure Act (APA), which "excuses notice and comment in emergency situations, or where delay could result in serious harm." TCT uses the *Sorenson* case to support its argument that the Commission was required to undergo notice and comment; however, that case is clearly distinguishable. In that case, the court rejected "the threat of impending fiscal peril" to a Commission program as an emergency within the meaning of the APA. Here, the Commission was responding to two back-to-back natural disasters that already occurred and created widespread damage that posed an acute and ongoing threat to public safety and the economy, compounded by the fact that the 2018 hurricane season was impending. Therefore, unlike in *Sorenson*, evidence of an emergency sufficient to forego notice and comment is clear rather than merely speculative. Indeed, many commenters later noted the benefits of receiving Stage 1 support quickly to their recovery efforts.

147. The Commission also finds it adequately sized support for Stage 1. TCT argues the amount is "pulled out of thin air" and that the Commission made no attempt to explain how the figures were determined. But that is not true. As TCT itself concedes, the amount of high-cost support provided in Stage 1 was about equal to the amount provided in advance funds to the

carriers in the Territories. The Commission based the amount of advanced funds previously provided on what the carriers already received under the high-cost program, although the Commission was careful to explain how the allocation in Stage 1 differed from that of frozen support. The Commission provided advance funds for a period of about seven months. Likewise, the Commission provided that Stage 1 support was for short-term expenditures through June 30, 2019, about seven to ten months from the time of disbursement. The Commission stated that it provided Stage 1 funds based on the determination that restoration was still incomplete. The Commission finds it was clear in how it determined the size and allocation of Stage 1 support. The Commission also finds it was reasonable for it to establish another stage of support, roughly equal to the previous disbursement in both amount and timeframe, to support similar restoration activities. The Commission notes that TCT has not provided any evidence or data to support its argument that the amount of Stage 1 funding was inappropriate.

148. TCT also argues that the Commission's reasoning behind the allocation of Stage 1 support between Puerto Rico and USVI is unexplained. The Commission's allocation between territories was based on "differences in landmass, geography, topography, and population," as TCT concedes. The Commission also stated that the difference was based on "the significant financial and operational challenges faced by carriers in both areas, and the past and current availability of high-cost support to carriers." The Commission finds this justification to be sufficient and again note that TCT fails to offer an alternative or any data to show why the Commission's approach was improper. Further, even if the Commission were to accept TCT's contribution-based standing argument, it is unclear how the specific allocation of funds between Puerto Rico and the U.S. Virgin Islands (as opposed to the overall amount of funds) could have caused it any injury.

149. Additionally, TCT argues the Commission should have outlined the acceptable uses for Stage 1 and that the Commission did not provide USAC enough direction on how to audit recipients. The Commission disagrees. Even TCT acknowledges that the Commission specified limited purposes for Stage 1 support. The Commission went further, however, stating that the support was to be used "to help restore and improve coverage and service quality to pre-hurricane levels and to help safeguard their equipment against

future natural disasters." The Commission specifically identified appropriate uses for support, including "repairing, removing, reinforcing or relocating network elements damaged during the hurricanes; repairing or restoring customer premise equipment; replacing, rebuilding, and reinforcing the physical outside plant (poles, fiber, nodes, coaxial cables, and the like); hardening networks against future disasters; and increasing network resilience to power outages or other potential service interruptions due to natural disasters." The Commission also articulated purposes for which the support may not be used. Moreover, all recipients of Stage 1 were required to be or become ETCs to receive support, and all ETCs have specific high-cost record-keeping and reporting obligations, which can be used for auditing. The Commission directed USAC specifically to audit Stage 1 recipients based on all of this direction. USAC has a great deal of experience and effective procedures in place for auditing recipients of the Fund for compliance with the Act and the Commission's rules, so contrary to TCT's argument, the Commission finds that USAC has more than sufficient information to complete the directed audits.

150. The Commission also finds that it did not unlawfully expand the scope of the high-cost fund in contravention of congressional intent by establishing Stage 1 support. Congress recognized that universal service is ever evolving and requires the Commission to consider a variety of factors in determining what services are supported by the Fund, including public health and safety. The Commission found that Stage 1 support was necessary as an immediate, one-time distribution of funds to existing carriers to continue the repair and restoration required to allow existing consumers to use the essential communications networks of the Territories in the aftermath of enormous destruction from multiple natural disasters. In the *2017 Hurricane Funding Order*, the Commission determined that, based on the circumstances and lack of access to services comparable to urban areas on the mainland, the entirety of Puerto Rico and USVI were presumptively high-cost. Further, the Commission had already provided many recipients of Stage 1 support significant amounts of USF support for years to deploy and maintain those networks, and if a provider was not already an ETC, it was required to become one in order to receive Stage 1 support. To become an

ETC, a provider must satisfy several Commission requirements. Just as the Commission previously found it may condition receipt of high-cost support on offering minimum levels of broadband service, it affirms that it can provide support for maintenance of ETC networks in the Territories, thereby facilitating the ability of the ETCs receiving support to provide access to advanced telecommunications and information services for all consumers.

IV. Procedural Matters

A. Paperwork Reduction Act

151. This document contains new information collection requirements subject to the PRA. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the new information collection requirements contained in this proceeding. In addition, the Commission notes that pursuant to the Small Business Paperwork Relief Act of 2002, the Commission previously sought specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees. In the Report and Order, the Commission adopts new rules relating to the Uniendo a Puerto Rico Fund and the Connect USVI Fund. The Commission has assessed the effects of the new rules on small business concerns. The Commission finds that the rules and procedures adopted here will minimize the information collection burden on affected entities, including small businesses.

B. Congressional Review Act

152. The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, OMB, 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 the Report and Order and Order on Reconsideration to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

153. *Final Regulatory Flexibility Certification*. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that "the rule will not have a significant economic impact on a substantial number of small entities." The RFA generally defines "small entity" as having the same meaning as the terms "small business,"

“small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. 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.

154. The Order adopts annual support to rebuild, improve, and expand fixed and mobile services in Puerto Rico and the U.S. Virgin Islands. The Order makes support available to any eligible fixed or mobile provider that obtains an ETC designation, using a competitive and subscriber-based process, respectively. Fifteen fixed and mobile carriers in Puerto Rico and the U.S. Virgin Islands currently receive high-cost support.

155. Although impossible to predict, even assuming other carriers will obtain an ETC designation to receive the additional support provided in the Order, the Commission does not anticipate the proposed rule to affect more than 25 providers out of the 737 providers currently receiving high-cost support. Accordingly, the Commission anticipates that the Order will not affect a substantial number of carriers, and so the Commission does not anticipate that it will affect a substantial number of small entities.

156. Therefore, the Commission certifies that the requirements of the Order will not have a significant economic impact on a substantial number of small entities.

V. Ordering Clauses

157. Accordingly, *it is ordered*, pursuant to the authority contained in sections 1, 2, 4(i), 214, 254, 303(r), 403, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 214, 254, 303(r), 403, and 405, §§ 1.1, 1.3, 1.425 and 1.429 of the Commission’s rules, 47 CFR 1.1, 1.3, 1.425 and 1.429, that the Report and Order on Reconsideration *is adopted*. The Report and Order and Order on Reconsideration *shall be effective* 30 days after publication in the **Federal Register**, except for portions containing information collection requirements in §§ 54.313, 54.316, 54.1503, 54.1505, 54.1508, and 54.1513 through 54.1515 that have not been approved by OMB. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date of these provisions.

158. *It is further ordered* that part 54 of the Commission’s rules *is amended* as set forth in the Order, and that any such

rule amendments that contain new or modified information collection requirements that require approval by the OMB under the Paperwork Reduction Act *shall be effective* after announcement in the **Federal Register** of OMB approval of the rules, and on the effective date announced therein.

159. *It is further ordered* that, pursuant to the authority contained in sections 1, 2, 4(i), 254, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 254, 303(r), §§ 1.1 and 1.425 of the Commission’s rules, 47 CFR 1.1, 1.425, that the Petition for Reconsideration filed by Tri-County Telephone Association, Inc. on July 13, 2018 is *denied*.

160. *It is further ordered* that, pursuant to the authority contained in sections 1, 2, 4(i), 254, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 254, 303(r), §§ 1.1 and 1.425 of the Commission’s rules, 47 CFR 1.1, 1.425, that the Petition for Clarification Or, In The Alternative, Reconsideration filed by WorldNet Telecommunications, Inc. on June 28, 2018 is *denied*.

161. *It is further ordered* that, pursuant to the authority contained in 1, 2, 4(i), 254, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 254, 303(r), §§ 1.1, 1.3, and 1.425 of the Commission’s rules, 47 CFR 1.1, 1.3, 1.425, that the Petition of Puerto Rico Telephone Company, Inc. for the Creation of an Emergency Universal Service Fund filed on Jan. 19, 2018, the Emergency Petition of Virgin Islands Telephone Corp. dba Viya for Wireline Hurricane Restoration Support filed on Dec. 6, 2017, the Vitelcom Cellular, Inc. Emergency Petition filed on Oct. 5, 2017, and the PRWireless, Inc. dba Open Mobile Emergency Petition for Waiver and Other Relief filed on Oct. 4, 2017 are *dismissed*.

List of Subjects in 47 CFR Part 54

Communications common carriers, Health facilities, Infants and children, internet, Libraries, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone.

Federal Communications Commission.

Marlene Dortch,
Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 54 as follows:

PART 54—UNIVERSAL SERVICE

■ 1. The 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 § 54.313 by revising paragraphs (e) introductory text and (e)(2) introductory text and adding paragraphs (n) and (o) to read as follows:

§ 54.313 Annual reporting requirements for high-cost recipients.

* * * * *

(e) In addition to the information and certifications in paragraph (a) of this section, the requirements in paragraphs (e)(1) and (2) of this section apply to recipients of Phase II, Remote Areas Fund, Uniendo a Puerto Rico Fund Stage 2 fixed support, and Connect USVI Fund Stage 2 fixed support:

* * * * *

(2) Any recipient of Phase II, Remote Areas Fund, Uniendo a Puerto Rico Fund Stage 2 fixed, or Connect USVI Fund Stage 2 fixed support awarded through a competitive bidding or application process shall provide:

* * * * *

(n) Recipients of Uniendo a Puerto Rico Fund Stage 2 fixed and mobile support and Connect USVI Fund Stage 2 fixed and mobile support 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 fixed and mobile support from Stage 2 of the Uniendo a Puerto Rico Fund and the Connect USVI Fund shall certify that they have conducted an annual review of the documentation required by § 54.1515(a) through (c) to determine the need for and to implement changes or revisions to disaster preparation and recovery documentation.

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

■ 3. Amend § 54.316 by adding paragraphs (a)(7) and (b)(7) to read as follows:

§ 54.316 Broadband deployment reporting and certification requirements for high-cost recipients.

(a) * * *

(7) Recipients subject to the requirements of § 54.1506 shall report the number of locations for Puerto Rico and the U.S. Virgin Islands and locational information, including geocodes, where they are offering service at the requisite speeds. Recipients shall also report the technologies they use to serve those locations.

(b) * * *

(7) Recipients of Uniendo a Puerto Rico Fund Stage 2 fixed and Connect USVI Fund fixed Stage 2 fixed support shall provide: On an annual basis by the last business day of the second calendar month following each service milestone in § 54.1506, a certification that by the end of the prior support year, it was offering broadband meeting the requisite public interest obligations specified in § 54.1507 to the required percentage of its supported locations in Puerto Rico and the U.S. Virgin Islands as set forth in § 54.5406. The annual certification shall quantify the carrier's progress toward or, as applicable, completion of deployment in accordance with the resilience and redundancy commitments in its application and in accordance with the detailed network plan it submitted to the Wireline Competition Bureau.

■ 4. Add subpart O to read as follows:

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

Sec.

- 54.1501 Uniendo a Puerto Rico Fund and Connect USVI Fund—Stage 2 for service to fixed locations.
- 54.1502 Geographic areas eligible for Stage 2 fixed support.
- 54.1503 Geographic area and locations to be served by Stage 2 fixed support recipients.
- 54.1504 Term of Stage 2 fixed support and phase-down of legacy fixed support.
- 54.1505 Stage 2 fixed support application process.
- 54.1506 Stage 2 fixed support deployment milestones.
- 54.1507 Stage 2 public interest obligations for service to fixed locations.
- 54.1508 Letter of credit for Stage 2 fixed support recipients.
- 54.1509 Uniendo a Puerto Rico Fund and the Connect USVI Fund—Stage 2 for mobile service.
- 54.1510 Stage 2 mobile carrier eligibility.
- 54.1511 Appropriate uses of Stage 2 mobile support.
- 54.1512 Geographic area eligible for Stage 2 mobile support.

- 54.1513 Provision of Stage 2 mobile support.
- 54.1514 Stage 2 mobile additional annual reporting.
- 54.1515 Disaster preparation and response measures.

§ 54.1501 Uniendo a Puerto Rico Fund and Connect USVI Fund—Stage 2 for service to fixed locations.

The Commission will use a competitive application process to determine the recipients of high-cost universal service support for offering voice and broadband service to fixed locations, and the amount of support that they may receive from Stage 2 of the fixed Uniendo a Puerto Rico Fund and of the fixed Connect USVI Fund for specific geographic areas in Puerto Rico and the U.S. Virgin Islands, respectively, subject to applicable procedures following the selection of competitive applications.

§ 54.1502 Geographic areas eligible for Stage 2 fixed support.

High-cost universal service support may be made available for Stage 2 of the fixed Uniendo a Puerto Rico Fund and the fixed Connect USVI Fund for all areas of Puerto Rico and the U.S. Virgin Islands, respectively, as announced by public notice.

§ 54.1503 Geographic area and locations to be served by Stage 2 fixed support recipients.

(a) For Stage 2 of the fixed Uniendo a Puerto Rico Fund, proposals will be accepted for each municipio in Puerto Rico.

(b) For Stage 2 of the fixed Connect USVI Fund, proposals will be accepted for one geographic area composed of St. John and St. Thomas islands together, and a second geographic area of St. Croix island.

(c) For both Funds, all locations must be served within each defined geographic area by the deployment milestone as defined in § 54.1506. The number of supported locations will be identified for each geographic area in the territories by public notice.

§ 54.1504 Term of Stage 2 fixed support and phase-down of legacy fixed support.

(a) *Term of support.* Support awarded through Stage 2 of the fixed Uniendo a Puerto Rico Fund and of the fixed Connect USVI Fund shall be provided for ten years.

(b) *Phase-down of legacy support.* Stage 2 of the fixed Uniendo a Puerto Rico 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 $\frac{2}{3}$ frozen fixed support amortized for the first 12 months following the date announced by public notice; $\frac{1}{3}$ frozen fixed support amortized over the second 12-month period; and zero frozen support thereafter.

§ 54.1505 Stage 2 fixed support application process.

(a) *Provider eligibility.* A provider shall be eligible to submit an application for support from Stage 2 of the fixed Uniendo a Puerto Rico Fund or of the fixed Connect USVI Fund if it had its own fixed network and provided broadband service in Puerto Rico or the U.S. Virgin Islands, respectively, according to its June 2018 FCC Form 477 data. A provider must obtain eligible telecommunications carrier designation no later than sixty (60) days after public notice of selection to receive fixed support. Any entity that is awarded support but fails to obtain ETC designation within sixty (60) days shall be considered in default and will not be eligible to receive high-cost funding.

(b) *Application processing.* No application will be considered unless it has been submitted in an acceptable form during the period specified by public notice. No applications submitted or demonstrations made at any other time shall be accepted or considered.

(c) *Application format.* All applications must be substantially in the format as specified and announced by the Wireline Competition Bureau.

(1) Any application that, as of the submission deadline, either does not identify the applicant seeking support as specified in the public notice announcing application procedures or does not include required certifications shall be denied.

(2) An applicant may be afforded an opportunity to make minor modifications to amend its application or correct defects noted by the applicant, the Commission, the Administrator, or other parties. Minor modifications include correcting typographical errors in the application and supplying non-material information that was inadvertently omitted or was not available at the time the application was submitted.

(3) Applications to which major modifications are made after the deadline for submitting proposals shall be denied. Major modifications may include, but are not limited to, any changes in the ownership of the applicant that constitute an assignment or change of control, or the identity of

the applicant, or the certifications required in the application.

(d) *Application contents.* In addition to providing information required by the Wireline Competition Bureau, any applicant for support from Stage 2 of the fixed Uniendo a Puerto Rico Fund or of the fixed Connect USVI Fund shall:

(1) Include ownership information as set forth in § 1.2112(a) of this chapter;

(2) Submit a detailed network plan and documents evidencing adequate financing for the project;

(3) Disclose its status as an eligible telecommunications carrier to the extent applicable and certify that it acknowledges that it must be designated as an eligible telecommunications carrier for the area in which it will receive support prior to being authorized to receive support;

(4) Describe the technology or technologies that will be used to provide service for each application; and

(5) To the extent that an applicant plans to use spectrum to offer its voice and broadband services, demonstrate it has the proper authorizations, if applicable, and access to operate on the spectrum it intends to use, and that the spectrum resources will be sufficient to cover peak network usage and deliver the minimum performance requirements to serve all of the fixed locations in eligible areas, and certify that it will retain its access to the spectrum for the term of support; and

(6) Provide a letter from a bank meeting the eligibility requirements outlined in § 54.1508 committing to issue an irrevocable stand-by letter of credit, in the required form, to the winning applicant. The letter shall at a minimum provide the dollar amount of the letter of credit and the issuing bank's agreement to follow the terms and conditions of the Commission's model letter of credit.

(e) *Identification of winning applicant.* After receipt and review of the proposals, a public notice shall identify each winning applicant that may be authorized to receive support from Stage 2 of the fixed Uniendo a Puerto Rico Fund and the fixed Connect USVI Fund support after the winning applicant submits a letter of credit and an accompanying opinion letter, as described in this section, in a form acceptable to the Commission. Each such winning applicant shall submit a letter of credit and accompanying opinion letter in a form acceptable to the Commission no later than the number of days provided by public notice.

(f) *Authorization to receive support.* After receipt of all necessary

information, a public notice will identify each winning applicant that is authorized to receive Uniendo a Puerto Rico Fund and the Connect USVI Fund Stage 2 fixed support.

§ 54.1506 Stage 2 fixed support deployment milestones.

Recipients of support from Stage 2 of the fixed Uniendo a Puerto Rico Fund and the fixed Connect USVI Fund must complete deployment to at least 40 percent of supported locations at the end of the third year of support, at least 60 percent at the end of the fourth year, at least 80 percent at the end of the fifth year, and 100 percent by the end of the sixth year. Compliance with the percentage of completion shall be determined based on the total number of supported locations in each geographic area. Recipients will be subject to the notification and default rules in § 54.320(d).

§ 54.1507 Stage 2 public interest obligations for service to fixed locations.

(a) Recipients of Stage 2 Uniendo a Puerto Rico and the Connect USVI Fund fixed support are required to offer broadband service with latency suitable for real-time applications, including Voice over internet Protocol, and usage capacity that is reasonably comparable to comparable offerings in urban areas, at rates that are reasonably comparable to rates for comparable offerings in urban areas.

(1) For purposes of determining reasonable comparable usage capacity, recipients are presumed to meet this requirement if they meet or exceed the usage level announced by public notice issued by the Wireline Competition Bureau.

(2) For purposes of determining reasonable comparability of rates, recipients are presumed to meet this requirement if they offer rates at or below the applicable benchmark to be announced annually by public notice issued by the Wireline Competition Bureau, or at or below the non-promotional prices charged for a comparable fixed wireline service in urban areas in the state or U.S. Territory where the eligible telecommunications carrier receives support.

(b) Support recipients are required to offer broadband service meeting the performance standards as proposed in their selected applications, as follows:

(1) Actual speeds of at least 25 Mbps downstream and 3 Mbps upstream, and a minimum usage allowance of 200 GB per month or an amount that reflects the average usage of a majority of fixed broadband customers, using Measuring Broadband America data or a similar

data source, whichever is higher, and announced annually by public notice issued by the Wireline Competition Bureau over the 10-year term.

(2) Actual speeds of at least 100 Mbps downstream and 20 Mbps upstream and at least 2 terabytes of monthly usage.

(3) Actual speeds of at least 1 Gigabit per second downstream and 500 Mbps upstream and at least 2 terabytes of monthly usage.

(c) For each of the tiers in paragraphs (b)(1) through (3) of this section, support recipients are required to meet one of two latency performance levels:

(1) Low latency recipients will be required to meet 95 percent or more of all peak period measurements of network round trip latency at or below 100 milliseconds; and

(2) High latency recipients will be required to meet 95 percent or more of all peak period measurements of network round trip latency at or below 750 ms and, with respect to voice performance, and to demonstrate a score of four or higher using the Mean Opinion Score (MOS).

§ 54.1508 Letter of credit for stage 2 fixed support recipients.

(a) *Letter of credit.* Before being authorized to receive support from Stage 2 of the fixed Uniendo a Puerto Rico Fund or the fixed Connect USVI Fund, a winning applicant shall obtain an irrevocable standby letter of credit which shall be acceptable in all respects to the Commission. No later than the number of days provided by public notice, the applicant shall submit a letter from a bank meeting the eligibility requirements outlined in this section committing to issue an irrevocable stand-by letter of credit, in the required form, to the winning applicant. The letter shall at a minimum provide the dollar amount of the letter of credit and the issuing bank's agreement to follow the terms and conditions of the Commission's model letter of credit. The letter of credit must remain open until the recipient has certified it has deployed broadband and voice service meeting the requirements in this subpart to 100% of the required number of locations, and Universal Service Administrative Company (USAC) has verified that the entity has fully deployed.

(b) *Value.* Each recipient authorized to receive the Uniendo a Puerto Rico Fund and the Connect USVI Fund Stage 2 fixed support shall maintain the standby letter of credit or multiple standby letters of credit in an amount equal to at a minimum the amount of fixed support that has been disbursed and that will be disbursed in the coming

year, until the USAC has verified that the recipient met the final service milestone.

(1) Once the recipient has met its 60 percent service milestone, it may obtain a new letter of credit or renew its existing letter of credit so that it is valued at a minimum at 90 percent of the total support amount already disbursed plus the amount that will be disbursed in the coming year.

(2) Once the recipient has met its 80 percent service milestone, it may obtain a new letter of credit or renew its existing letter of credit so that it is valued at a minimum at 80 percent of the total support that has been disbursed plus the amount that will be disbursed in the coming year.

(c) *Acceptable bank issuing letter of credit.* The bank issuing the letter of credit shall be acceptable to the Commission. A bank that is acceptable to the Commission is:

(1) Any United States bank:

(i) That is insured by the Federal Deposit Insurance Corporation; and

(ii) That has a bank safety rating issued by Weiss of B- or better; or

(2) CoBank, so long as it maintains assets that place it among the 100 largest United States Banks, determined on basis of total assets as of the calendar year immediately preceding the issuance of the letter of credit and it has a long-term unsecured credit rating issued by Standard & Poor's of BBB- or better (or an equivalent rating from another nationally recognized credit rating agency); or

(3) The National Rural Utilities Cooperative Finance Corporation, so long as it maintains assets that place it among the 100 largest United States Banks, determined on basis of total assets as of the calendar year immediately preceding the issuance of the letter of credit and it has a long-term unsecured credit rating issued by Standard & Poor's of BBB- or better (or an equivalent rating from another nationally recognized credit rating agency); or

(4) Any non-United States bank:

(i) That is among the 100 largest non-U.S. banks in the world, determined on the basis of total assets as of the end of the calendar year immediately preceding the issuance of the letter of credit (determined on a U.S. dollar equivalent basis as of such date);

(ii) Has a branch office in the District of Columbia or such other branch office agreed to by the Commission;

(iii) Has a long-term unsecured credit rating issued by a widely-recognized credit rating agency that is equivalent to a BBB- or better rating by Standard & Poor's; and

(iv) Issues the letter of credit payable in United States dollars

(d) *Bankruptcy opinion letter.* A winning applicant of the Uniendo a Puerto Rico Fund and the Connect USVI Fund Stage 2 fixed support shall provide with its letter of credit an opinion letter from its legal counsel clearly stating, subject only to customary assumptions, limitations, and qualifications, that in a proceeding under Title 11 of the United States Code, 11 U.S.C. 101 *et seq.* (the "Bankruptcy Code"), the bankruptcy court would not treat the letter of credit or proceeds of the letter of credit as property of the winning bidder's bankruptcy estate under section 541 of the Bankruptcy Code.

(e) *Authorization for Stage 2 support.* Authorization to receive the Uniendo a Puerto Rico Fund and the Connect USVI Fund Stage 2 fixed support is conditioned upon full and timely performance of all of the requirements set forth in this section, and any additional terms and conditions upon which the support was granted.

(1) Failure by a Uniendo a Puerto Rico Fund and the Connect USVI Fund Stage 2 fixed support recipient to meet its service milestones as required by § 54.1506 will trigger reporting obligations and the withholding of support as described in § 54.320(c). Failure to come into full compliance within 12 months will trigger a recovery action by the USAC. If the Uniendo a Puerto Rico Fund or Connect USVI Fund Stage 2 fixed support recipient does not repay the requisite amount of support within six months, the USAC will be entitled to draw the entire amount of the letter of credit and may disqualify the Uniendo a Puerto Rico Fund or Connect USVI Fund Stage 2 fixed support recipient from the receipt of any or all universal service support.

(2) A default will be evidenced by a letter issued by the Chief of the Wireline Competition Bureau, or the Chief's designee, which letter, attached to a standby letter of credit draw certificate, shall be sufficient for a draw on the standby letter of credit for the entire amount of the standby letter of credit.

§ 54.1509 Uniendo a Puerto Rico Fund and the Connect USVI Fund—Stage 2 for mobile service.

(a) *Term of support.* Uniendo a Puerto Rico Fund or the Connect USVI Fund Stage 2 mobile support shall be provided to eligible mobile carriers that elect to make a commitment to its eligible service area for a three-year term to begin on a date determined by the Wireline Competition Bureau.

(b) *Election of support.* Eligible mobile carriers as provided in § 54.1510 shall have a one-time option to elect to participate in Stage 2 of the mobile Uniendo a Puerto Rico Fund and the mobile Connect USVI Fund for the eligible service area. An eligible mobile carrier may elect to receive all or a subset of the Stage 2 support for which it is eligible. FCC will publish the order adopting Stage 2 of the Uniendo a Puerto Rico Fund and the Connect USVI Fund in the **Federal Register**. To participate, an eligible provider must submit an election to participate within 30 days following that publication. Each provider must provide to the Commission through the Commission's Electronic Comment Filing System as well as by emailing a copy to ConnectAmerica@fcc.gov either a renewal of its Stage 1 certification specifying the number of subscribers (voice or broadband internet access service) it served in the territory as of June 30, 2017; or a new certification specifying the number of subscribers (voice or broadband internet access service) it served in the territory as of June 30, 2017, along with accompanying evidence. Each provider will make two simultaneous elections. First, each provider may elect to receive Stage 2 support for which it is eligible to restore, harden, and expand networks capable of providing 4G LTE or better services. Second, each provider may elect to receive Stage 2 support for which it is eligible to deploy networks capable of providing 5G service.

(c) *Support amounts.* A carrier exercising the election of support specified in paragraph (b) of this section shall receive a pro rata share of the available mobile support based on the number of subscribers reported in its June 2017 FCC Form 477. Each carrier may receive up to 75% of its eligible pro rata support amount to restore, harden, and expand networks capable of provider 4G LTE or better services meeting the minimum service requirements provided in § 54.1514(b). Each carrier may also elect to receive up to 25% of its eligible pro rata support amount to deploy networks capable of providing 5G service.

(d) *Support payments.* Each eligible mobile provider that elects to participate in Stage 2 of the Uniendo a Puerto Rico Fund or the USVI Connect Fund will receive monthly installments of its pro rata share of mobile support amortized over the three-year support period provided in paragraph (a) of this section. Each recipient's pro rata share will be adjusted according to its election to receive or decline support for 4G LTE or 5G deployment. A mobile provider

that fails to meet its commitment to use its eligible support for 4G LTE or 5G deployment shall return an amount equal the unused amount of Stage 2 support to the Administrator within 30 days following the end of the three-year support period.

(e) *Phase-down of legacy support.* An eligible mobile carrier may elect or decline to participate in Stage 2 of the mobile Uniendo a Puerto Rico and/or the mobile Connect USVI Fund. Beginning on a date to be determined by the Bureau and announced by public notice, an eligible mobile carrier that declines to participate in Stage 2 will receive one-half of its prior frozen fixed support amortized for a 12-month period and zero fixed support thereafter.

§ 54.1510 Stage 2 mobile carrier eligibility.

Facilities-based mobile carriers that provided mobile wireless services to consumers in the Territories as reported by their June 2017 FCC Form 477 shall be eligible to participate in Stage 2 of the mobile Uniendo a Puerto Rico Fund and the mobile Connect USVI Fund, respectively.

§ 54.1511 Appropriate uses of Stage 2 mobile support.

Recipients of Uniendo a Puerto Rico and Connect USVI Stage 2 mobile support shall use the support solely for:

(a) Deployment, replacement, and upgrade at 4G LTE or better technological network level, as specified in this part; and

(b) Hardening of 4G LTE or better network facilities to help prevent future damage from natural disasters.

§ 54.1512 Geographic area eligible for Stage 2 mobile support.

Uniendo a Puerto Rico Fund and Connect USVI Fund Stage 2 mobile support may be used for all geographic areas of Puerto Rico or of the U.S. Virgin Islands within a recipient's designated eligible telecommunications carrier service area consistent with the parameters of Stage 2 of the Uniendo a Puerto Rico Fund and the Connect USVI Fund.

§ 54.1513 Provision of Stage 2 mobile support.

(a) A recipient of Stage 2 mobile support shall commit to, at a minimum, the full restoration of its pre-hurricane network coverage area, as determined by FCC Form 477 reporting standards, at a level of service that meets or exceeds pre-hurricane network levels and at reasonably comparable levels to those services and rates available in urban areas.

(b) Each recipient of Stage 2 mobile support shall demonstrate mobile

network coverage that is equal to or greater than 66 percent of its pre-hurricane coverage by the end of year two of the Stage 2 term of support, and that is equal to or greater than 100 percent of its pre-hurricane coverage by the end of year three of the Stage 2 term of support.

§ 54.1514 Stage 2 mobile additional annual reporting.

(a) Each recipient of Stage 2 mobile support shall submit no later than 30 days following the end of the calendar year reports demonstrating and certifying to the fact that its mobile network coverage is equal to or greater than 66 percent of its pre-hurricane coverage by the end of year two of the Stage 2 term of support and 100 percent of its pre-hurricane coverage by the end of year three of the Stage 2 term of support.

(1) A recipient of Stage 2 mobile support shall submit with the report required by this section the documentation in paragraphs (a)(1)(i) through (iii) of this section in support of its milestone obligations:

(i) Electronic shapefiles site coverage plots illustrating the area reached by mobile services;

(ii) A list of all census blocks in the Territories reached by mobile services; and

(iii) Data received or used from drive, drone, and/or scattered site tests, analyzing network coverage for mobile services.

(2) [Reserved]

(b) Each recipient of Stage 2 mobile support shall report and certify, no later than thirty (30) days following the end of the third year of the Stage 2 term of support for all eligible areas where a provider used Stage 2 support, 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 reasonable 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 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.

(c) Each recipient of Stage 2 mobile support shall submit no later than thirty (30) days after the end of the third year

of the Stage 2 term of support a certification that it has met the requisite public interest obligations in paragraphs (a) and (b) of this section.

(d) Each recipient of Stage 2 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.

(e) Each recipient that elects to receive Stage 2 mobile support for the deployment of 5G technological networks shall submit an annual certification no later than thirty (30) days after the end of each 12-month period the use of Stage 2 support for the deployment of 5G technology to ensure compliance with its commitment. Each recipient must report the total cost incurred and total amount of Stage 2 support spent related to the deployment of 5G technology during the preceding 12-month period. Each recipient must describe in detail how it used the support for deployment of 5G technology.

(f) Each report shall be submitted to the Office of the Secretary of the Commission, 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.

(g) Recipients of Stage 2 mobile support have a continuing obligation to maintain the accuracy and completeness of the information provided in their milestone reports. All recipients of Stage 2 mobile support shall provide information about any substantial change that may be of decisional significance regarding their eligibility for Stage 2 support and compliance with Uniendo a Puerto Rico Fund and the Connect USVI Fund requirements in this section as an update to their milestone report submitted to the entities listed in paragraph (f) 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 Stage 2 requirements in this part, shall be submitted within ten (10) business days after the reportable event occurs.

(h) In order for a recipient of Stage 2 mobile support to continue to receive mobile support for the following calendar year, it must submit the milestone reports required by this

section by the deadlines set forth in paragraphs (a) through (g) of this section.

§ 54.1515 Disaster preparation and response measures.

(a) Each recipient of fixed and mobile support from Stage 2 of the Uniendo a Puerto Rico Fund and the Connect USVI Fund shall create, maintain, and submit to the Wireline Competition Bureau for its review and approval a detailed Disaster Preparation and Response Plan document that describes and commits to the methods and procedures that it will use, during the period in which it receives Stage 2 support, 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.

(b) Each Stage 2 support recipient shall submit the Disaster Preparation and Response Plan to the Bureau for its review and approval prior to receiving Stage 2 support. The Bureau shall approve submitted Disaster Preparation and Response Plans that are complete and thoroughly address the criteria enumerated in paragraph (a) of this section. The Bureau shall notify the support recipient of deficiencies identified in the Disaster Preparation and Response Plan and withhold authorization to receive funding until the support recipient has cured the deficiencies. Recipients shall materially comply with the representations in the document, once approved.

(c) Recipients 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).

(d) Stage 2 support recipients shall use the Disaster Information Reporting System for mandatory reporting. (See www.fcc.gov/general/disaster-information-reporting-system-dirs-0 for more information.)

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 180713633-9174-02]

RIN 0648-XY052

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod in the Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is reallocating the projected unused amount of Pacific cod total allowable catch (TAC) from trawl catcher vessels and vessels using jig gear to catcher/processors using pot gear and catcher vessels less than 60 feet (18.3 meters) length overall (LOA) using hook-and-line or pot gear in the Bering Sea and Aleutian Islands management area. This action is necessary to allow the 2019 TAC of Pacific cod to be harvested.

DATES: Effective November 6, 2019, through 2400 hours, Alaska local time (A.l.t.), December 31, 2019.

FOR FURTHER INFORMATION CONTACT: Josh Keaton 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the Bering Sea and Aleutian Islands (BSAI) according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2019 Pacific cod TAC specified for catcher vessels using trawl gear in the BSAI is 34,660 metric tons (mt) as established by the final 2019 and 2020 harvest specifications for groundfish in the BSAI (84 FR 9000, March 13, 2019), and two reallocations (84 FR 2068, February 6, 2019, 84 FR 43727, August 21, 2019).

The 2019 Pacific cod TAC specified for vessels using jig gear in the BSAI is 559 mt as established by the final 2019 and 2020 harvest specifications for groundfish in the BSAI (84 FR 9000, March 13, 2019), and two reallocations (84 FR 2068, February 6, 2019, 84 FR 43727, August 21, 2019).

The 2019 Pacific cod TAC specified for catcher/processors using pot gear in the BSAI is 2,410 mt as established by the final 2019 and 2020 harvest specifications for groundfish in the BSAI (84 FR 9000, March 13, 2019).

The 2019 Pacific cod TAC allocated to catcher vessels less than 60 feet (18.3 meters(m)) length overall (LOA) using hook-and-line or pot gear in the BSAI is 6,235 mt as established by the final 2019 and 2020 harvest specifications for groundfish in the BSAI (84 FR 9000, March 13, 2019) and two reallocations (84 FR 2068, February 6, 2019, 84 FR 43727, August 21, 2019).

The Administrator, Alaska Region, NMFS, (Regional Administrator) has determined that catcher vessels using trawl gear will not be able to harvest 2,500 mt of the 2019 Pacific cod TAC allocated to those vessels under § 679.20(a)(7)(ii)(A)(9) and jig vessels will not be able to harvest 400 mt of the 2019 Pacific cod TAC allocated to those vessels under § 679.20(a)(7)(ii)(A)(1).

Therefore, in accordance with § 679.20(a)(7)(iii), NMFS reallocates 2,500 mt from the trawl catcher vessel apportionment to the annual amount specified for catcher/processors using pot gear and catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear. Also, in accordance with § 679.20(a)(7)(iv)(C), NMFS reallocates 400 mt of Pacific cod from the jig gear apportionment to the annual amount specified for catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear.

The harvest specifications for Pacific cod included in final 2019 and 2020 harvest specifications for groundfish in the BSAI (84 FR 9000, March 13, 2019) and two reallocations (84 FR 2068, February 6, 2019, 84 FR 43727, August 21, 2019) are revised as follows: 32,160 mt to catcher vessels using trawl gear, 159 mt to vessels using jig gear, 2,745 mt to catcher/processors using pot gear, and 8,800 mt to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries