

November 3, 2022

The Honorable Chairwoman Jessica Rosenworcel  
Federal Communications Commission  
45 L Street NE  
Washington, DC 20554

**Re: PS Docket No. 21-346, Resilient Networks**

Dear Chairwoman Rosenworcel:

The ability to communicate during an emergency is a life and death issue. This includes access to life-saving communication services during an extreme weather event. If the public cannot access 911 systems, and access other aid and information as well via landlines, cellular services, internet, or broadcast media during climate disasters, their critical information needs cannot be met. The impact of this is that numerous lives are lost during rescue efforts and an immeasurable amount of harm is done to communities across the U.S.

We are calling on the Federal Communications Commission to investigate all of the factors that contributed to communication outages in Puerto Rico and Florida following the respective storms, Hurricane Fiona and Hurricane Ian, that made landfall in late September. The storms and their aftermath caused at least 25 deaths in Puerto Rico and 127 in Florida.<sup>1</sup> We also urge the Commission to investigate whether the lack of communications contributed to the death toll.

In addition, we call on the agency to conduct a comprehensive analysis of the current state of telecommunications infrastructure in Puerto Rico to better understand the failures that occurred during this latest storm and other prior storms and emergencies.

We are encouraged by the action the FCC has taken to address service disruptions over the past two months in both Puerto Rico and Florida, including your recent trip to survey the recovery

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<sup>1</sup> Ray Sanchez, “At Least 25 Deaths in Puerto Rico May be Linked to Hurricane Fiona, Island Health Department Says,” CNN (Sept. 30, 2022), <https://www.cnn.com/2022/09/30/us/puerto-rico-hurricane-fiona-deaths/index.html>; Meredith Deliso and Mary Kekatos, “Hurricane Ian Death Toll Now More Than 100 After Storm Slams into Florida, North Carolina,” ABC News (Oct. 12, 2022), <https://abcnews.go.com/US/multiple-deaths-reported-hurricane-ian-slams-florida/story?id=90693636>; Kevin Collier, “Internet access down across Florida areas hit by Hurricane Ian,” NBC News (Sept. 29, 2022), <https://www.nbcnews.com/tech/internet/internet-access-florida-areas-hit-hurricane-ian-rcna49981>.

efforts.<sup>2</sup> But we also urge the Commission to require more thorough investigation of every significant weather event that causes communication outages and damages telecom infrastructure. Such investigations are critical to helping the general public, and especially impacted communities and lawmakers, understand the policies the Commission should adopt and enforce to ensure the resiliency of that infrastructure.

The FCC investigated the loss of communications services after Hurricane Michael, a powerful category 5 storm that made landfall in the Florida panhandle in 2018 and killed at least 16 people.<sup>3</sup> The FCC decided to conduct this investigation after then-Chairman Pai and powerful elected officials in Florida criticized carriers for communications outages.<sup>4</sup> The Commission released a report the following year that found a lack of coordination among wireless and landline service providers, power companies and restoration crews, and municipalities in restoring communications in the wake of the storm.<sup>5</sup>

Though the FCC report about the outages following Hurricane Michael was far from comprehensive, it did fault the carriers and these other parties for their failures to coordinate. The Commission failed to conduct a similar examination after Hurricane Maria, which devastated Puerto Rico in 2017 and became one of the deadliest disasters in our nation's history.<sup>6</sup> The category 4 storm destroyed the islands' infrastructure and resulted in up to 5,000 deaths. People's inability to communicate contributed to the death toll and hampered recovery efforts.<sup>7</sup> Yet the FCC failed to conduct a full examination of the specific historical and present-day factors that contributed to the collapse of the islands' communications infrastructure, despite repeated calls for a comprehensive investigation made by our organization working with Puerto Rican allies.<sup>8</sup>

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<sup>2</sup> Federal Communications Commission, "Chairwoman Rosenworcel Updates Public on Efforts to Support Puerto Rico in the Aftermath of Hurricane Fiona" (Sept. 20, 2022); Federal Communications Commission, "Chairwoman Rosenworcel Statement on Hurricane Ian" (Sept. 30, 2022).

<sup>3</sup> Ray Sanchez, "Scientists Now Say Hurricane Michael Was A Category 5 Storm At The Time of US Landfall," CNN (Apr. 19, 2019), <https://www.cnn.com/2019/04/19/weather/hurricane-michael-upgraded-category-5>.

<sup>4</sup> Free Press, "Free Press Action Calls on Biden Administration, Congress and FCC to Prioritize Essential Communications Across Storm-Devastated Puerto Rico" (Sept. 20, 2022), <https://www.freepress.net/news/press-releases/free-press-action-calls-biden-administration-congress-and-fcc-prioritize-communications-puerto-rico>.

<sup>5</sup> Federal Communications Commission, "Hurricane Michael's Impact on Communications: Preparation, Effect, and Recovery," PS Docket No. 18-339, Report and Recommendations by Public Safety and Homeland Security Bureau (May 9, 2019).

<sup>6</sup> See New England Journal of Medicine, "Mortality in Puerto Rico after Hurricane Maria" (July 12, 2018), <https://www.nejm.org/doi/full/10.1056/NEJMsa1803972>; GW Today, "GW Researchers: 29,75 Excess Deaths Linked to Hurricane Maria" (Aug. 29, 2018), <https://gwtoday.gwu.edu/gw-researchers-2975-excess-deaths-linked-hurricane-maria>.

<sup>7</sup> Danica Coto, "Puerto Rico Lures Tech Developers as Hurricane Season Looms," Associated Press (Mar. 20, 2019), <https://www.apnews.com/36ad55904ab6459db6a0521d92490b90>; Federal Emergency Management Agency, "2017 Hurricane Season FEMA After-Action Report," at 38 (July 12, 2018), [https://www.fema.gov/sites/default/files/2020-08/fema\\_hurricane-season-after-action-report\\_2017.pdf](https://www.fema.gov/sites/default/files/2020-08/fema_hurricane-season-after-action-report_2017.pdf).

<sup>8</sup> Free Press, "Connecting the Dots, The Telecommunications Crisis In Puerto Rico" (May 14, 2019), [https://www.freepress.net/sites/default/files/2019-05/connecting\\_the\\_dots\\_the\\_telecom\\_crisis\\_in\\_puerto\\_rico\\_free\\_press.pdf](https://www.freepress.net/sites/default/files/2019-05/connecting_the_dots_the_telecom_crisis_in_puerto_rico_free_press.pdf).

In 2021, the Government Accountability Office released a report condemning the Trump FCC's protracted attempts to restore communications after Hurricane Maria. The report found that the FCC's role was not clearly defined and that the agency did not sufficiently engage with the Puerto Ricans on the islands who were most impacted by the devastation.<sup>9</sup>

Due to Puerto Rico's colonial status as a U.S. possession, the lack of human and civil rights afforded to Puerto Ricans on the islands, and the fact that its population is largely comprised of Black, indigenous, and mixed-race peoples, Puerto Ricans are often treated as second-class citizens. The Puerto Rican people deserve better. A U.S. Supreme Court decision earlier this year, which clarified Puerto Ricans' rights under its colonial status, reinforced the fact that Puerto Ricans on the islands are not treated equally under the U.S. Constitution. In his concurring opinion, Justice Neil Gorsuch wrote that the racist legal framework the Supreme Court established in early 20th century cases still defines Puerto Rico's colonial relationship with the United States. He noted:

A century ago in the Insular Cases, this Court held that the federal government could rule Puerto Rico and other Territories largely without regard to the Constitution. It is past time to acknowledge the gravity of this error and admit what we know to be true: The Insular Cases have no foundation in the Constitution and rest instead on racial stereotypes. They deserve no place in our law.<sup>10</sup>

President Biden acknowledged Puerto Ricans have been neglected as he departed the White House on October 3 of this year, en route to Puerto Rico to survey the damage from Hurricane Fiona. He stated he was visiting Puerto Rico "because they [Puerto Ricans] haven't been taken very good care of" and "they've been trying like hell to catch up from the last hurricane."<sup>11</sup>

While visiting the city of Ponce, the President added he was "determined to help Puerto Rico build faster than in the past and stronger and better prepared for the future." He noted his administration is "investing in Puerto Rico's roads, bridges, public transit, ports, airports, water safety, and high-speed Internet" and that he was "ready to deploy and expedite more resources from the Department of Energy and other federal agencies...to help transform the entire system."

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<sup>9</sup> Free Press, "GAO Investigation Reveals Trump FCC Lacked Transparency and Failed to Fully Engage the Public in Its Hurricane Maria Response" (June 1, 2021), <https://www.freepress.net/news/press-releases/gao-investigation-reveals-trump-fcc-lacked-transparency-and-failed-fully-engage>.

<sup>10</sup> U.S. v. Vaello Madero, 142 S. Ct. 1539, 1552 (2022) (Gorsuch, J., concurring); *see also* Democracy Now, "Juan González: In Surprise Move, Gorsuch Challenges U.S. Colonialism in SCOTUS Ruling on Puerto Rico" (Apr. 27, 2022), [https://www.democracynow.org/2022/4/27/puerto\\_rico\\_scotus\\_self\\_determination\\_act](https://www.democracynow.org/2022/4/27/puerto_rico_scotus_self_determination_act).

<sup>11</sup> "Remarks by President Biden Before Marine One Departure" (Oct. 3, 2022), <https://www.whitehouse.gov/briefing-room/speeches-remarks/2022/10/03/remarks-by-president-biden-before-marine-one-departure-19/>.

The President also predicted that the “climate crisis and more extreme weather are going to continue to hit this island and hit the United States overall. And as we rebuild, we have to ensure that we build it to last.”<sup>12</sup>

Puerto Ricans on the islands and throughout the United States are fully aware of this reality. While the President recognized the unjust conditions that Puerto Ricans are faced with, it is critical that his administration follows through with restorative actions that address the historical neglect of the islands due to their colonized status.

For this reason, we urge the Commission to conduct a thorough investigation into all of the factors that contributed to phone and internet outages in Puerto Rico following Hurricane Fiona. In addition, we are also calling on the agency to conduct a comprehensive analysis of the current state of telecom infrastructure in Puerto Rico five years after Hurricane Maria.

The concerns and questions we are expressing about the state of Puerto Rico’s communications infrastructure are similar to the ones you expressed while serving as a commissioner during the previous administration.

You stated in 2019 that the Commission lacked any understanding of the state of Puerto Rico’s communication facilities even though it had spent more than \$100 million of universal service funds at that point to “boost the restoration of communications on Puerto Rico and the Virgin Islands.”

You noted the FCC did “not have a clear picture of where those funds were spent” but “should know with precision what was spent and where.”

“We should fashion what we do today around all of that information,” you added. “But we do not. That’s regrettable. It’s an invitation for waste because it fails to ensure we are directing funding to areas with the greatest need.”<sup>13</sup>

We are grateful for your advocacy in regards to telecom issues in Puerto Rico, and agree that a full audit of how those universal service funds were spent is needed. But we are asking the agency to provide a more comprehensive analysis of the current state of communications infrastructure in Puerto Rico. To that end, we request a public report with data that addresses the

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<sup>12</sup> “Remarks by President Biden on Hurricane Fiona Response and Recovery Efforts” (Oct. 3, 2022), <https://www.whitehouse.gov/briefing-room/speeches-remarks/2022/10/03/remarks-by-president-biden-on-hurricane-fiona-response-and-recovery-efforts/>.

<sup>13</sup> See *Uniendo a Puerto Rico Fund and the Connect USVI Fund*, et al., WC Docket No. 18-143, et al., Report & Order on Reconsideration, 34 FCC Rcd 9109, 9213 (2019) (concurring statement of Commissioner Jessica Rosenworcel).

concerns you previously raised as well as an analysis that addresses the current resiliency of the islands' communications infrastructure.

It is imperative for the safety of Puerto Ricans, and the many communities living on the frontlines of the climate crisis, that the FCC fully investigate what happened during these storms. We urge you to investigate this, and share the findings with the public in an effort to adopt and enforce government policies that ensure the resiliency of our communications infrastructure and life-saving communication services.

Respectfully submitted,

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