



February 13, 2014

Senador Ramón Luis Nieves, Presidente
Comisión de Asuntos Energéticos y Recursos de Agua
Senado de Puerto Rico
El Capitolio
PO Box

RE: Proyecto de la Senado 882 (PS 882)

Honorable Senador Nieves:

The Puerto Rico Broadband Task Force is writing to submit its comments regarding P del S 882, which proposes the creation of the Comisión de Energía y Telecomunicaciones de Puerto Rico ("CETEL") for the regulation of Telecommunications, Energy and Broadband. P del S 882 would convert the existing Junta Reglamentadora de Telecomunicaciones de Puerto Rico (JRTPR), as established under Law 213, into CETEL.

The Puerto Rico Broadband Task Force (PRBT) is an equally footed multi-stakeholder group formed for the purpose of increasing broadband adoption by residents of Puerto Rico. The PRBT is composed of 12 members representing various sectors of the broadband ecosystem in Puerto Rico including the Office of Chief Information Officer, the Puerto Rico Telecommunication Regulatory Board, the Internet Society, broadband providers, information and communication technology providers, K-12 and Higher education, healthcare, local government, grassroots community groups and private sector groups.

The primary goal of the PRBT has been to design and facilitate the implementation of a pragmatic and actionable Broadband Strategic Plan that effectively minimizes the digital divide in Puerto Rico by promoting adoption of broadband and Information Technology (IT) and stimulating investment opportunities in ever-increasing broadband capacity infrastructure across the island.

On May 15, 2012, the PRBT released (<http://www.ustream.tv/recorded/22605496>) the first Puerto Rico Broadband Strategic Plan which: (a) provides a clear assessment of Puerto Rico's existing broadband landscape; (b) establishes future broadband capacity and adoption goals; (c) addresses issues and challenges which must be addressed in order to achieve those goals including digital literacy training, affordability and barriers to broadband build out. The plan puts special emphasis on the needs of broadband in education and health care.

Chapter IV - A 21st Century Broadband Infrastructure for Puerto Rico includes particular recommendations on how to promote investment in broadband capacity in Puerto Rico, including the role of the telecommunications regulatory entity in this process. Below we include various sections of the Puerto Rico Broadband Strategic Plan, followed by our summarized comments.

Streamline the Regulatory Process to Promote Fair Competition and Market Entry

Competition in the market is a key trigger for continued investment in broadband upgrades, and improved quality of service and pricing across broadband providers striving to obtain and retain broadband subscribers. As such, it is imperative that the regulatory process effectively monitors anti-competitive behavior in the market, and aggressively strives to remove any entry barriers into the market that may delay or eliminate competition. Where competition is found to be lacking, or anti-competitive behavior is deemed to take place, appropriate action by the Junta or through legislation should be implemented.

Government should facilitate the provision of broadband at higher speeds in rural and urban areas enhancing competitiveness and provision of broadband in unserved and underserved communities. In order to foster economic development, social betterment, promote sustainable competition, and encourage private investment in broadband networks, it is important that the executive branch and the legislative branch understand ways in which government assets, processes, corporations, and other entities can block or promote these goals. In particular, it is important that government assets support the expansion of the broadband market in a competitively neutral way that will promote, and not distort, the competitive process. Government owned assets should facilitate a fair, competitively neutral environment for the telecommunications and broadband market, void of unfair competition from any private or public entity.

Government assets that have a profound impact in the broadband market and can either effectively contribute to broadband expansion, or block its development include Ultracom's underwater cable facilities that provide essential backhaul for data transport; PREPA's network of civil infrastructure including pole attachments that are essential for continued expansion of broadband infrastructure and competition; PREPA.Net's retail and wholesale broadband offers to providers, institutions and end-users; Puerto Rico's roads and transportation infrastructure, providing essential paths for broadband expansion; etc.

In order to promote a vibrant competitive broadband market that attracts the influx of capital necessary to continue expanding our broadband infrastructure, careful assessment of how these assets are contributing or deterring to broadband expansion is necessary.

Recommendation:

Streamline regulatory process to promote network investment and increase competition in the broadband sector.

Recommendation:

The legislative and executive branches, as well as the Junta Regulamentadora de las Telecomunicaciones, should work to ensure that government assets critical to the broadband market are effectively contributing to the expansion of the market in a fair and competitively neutral way. The Government and regulatory agency should be vigilant of anti-competitive activity blocking market expansion and increased capital investment in broadband capacity across Puerto Rico.

State & Municipal Tax Policies Pro-Investment

As a result of Puerto Rico's current economic downturn, public sector leaders are seeking new revenue sources to address budget shortfalls. This search for new local government revenue sources has led various municipal governments to contemplate the idea of imposing future fees or taxes on broadband infrastructure in their municipalities. These proposals present uncertainty in the broadband market and, as in any market, uncertainty of future costs means weaker business cases for deployment. All of which ultimately results in lagged network deployment and higher costs to the Puerto Rico consumer.

As importantly, these short-sighted proposals fail to understand that, if implemented, such strategies would slow growth of the very infrastructure that is necessary to reverse the island's economic contraction and to stimulate economic development and ultimately recuperate recent municipal tax losses. Municipalities with broadband infrastructure will (a) attract and retain residents and businesses; (b) create new job opportunities; (c) improve educational opportunities for students; (d) provide more effective means to deliver local healthcare services; (e) improve efficiencies of local public safety enforcement; and many others. In short, taxing local broadband deployment means taxing the economic engine necessary for that local community to ensure economic growth and competitiveness.

To encourage the expansion of high-speed broadband networks and ameliorate cost uncertainties, the Puerto Rico government should work with municipal government officials to ensure that new infrastructure installed for broadband services on public or private property, roads, easements or rights-of-way will not be subject to further state or municipal tax or fees.

Recommendation:

Reduce uncertainty of future costs by encouraging implementation of tax and fee policies by state and municipal government aimed to attract investment

A robust broadband infrastructure is essential to attract capital investments that will generate the jobs and opportunities needed to sustain Puerto Rico's competitiveness in our global economy. Attracting that capital to Puerto Rico, an insular territory with inherently higher costs of deployment & operations of broadband, is becoming more challenging. As stated in Chapter 4 of the Puerto Rico Broadband Strategic Plan:

Moreover, the cost of doing business in Puerto Rico is a major deterrent to attracting network operators to the island. Primary concerns include:

- Puerto Rico's labor laws are the most regulated in the nation, and present a serious challenge toward job creation and economic growth.
- Puerto Rico's electricity costs are surging to the point that the Governor has declared an Energy Emergency. The electricity which is provided by the Puerto Rico Electric Power Authority (PREPA) is unreliable and unstable, and results in significant additional costs to broadband providers who must install and maintain costly and insufficient alternative power generation and backup systems (generators/batteries) to ensure ongoing operation of their services in spite of regular power interruptions.

(continued)

- Puerto Rico's labor pool is shrinking, as a result of increased migration from the island to the mainland. This "brain drain" has resulted in the loss of knowledgeable telecommunications and Internet networking staff.

There are, however, meaningful ways to promote investment by eliminating regulatory, institutional, and other hurdles that impact negatively the business case for deployment. Significant steps can and must be taken across Puerto Rico to improve the business case for broadband deployment and encourage private investment across low-income communities and nonurban areas of the island.

The Puerto Rico Broadband Taskforce (PRBT) supports efforts to address electricity costs and quality of service through the establishment of a regulatory body for energy.

However, the PRBT does not support the merger of energy and telecommunications regulation into a single entity as presented under P del S 882. PRBT is very concerned with the loss of telecommunications technical expertise within CETEL. Currently JRT has five (5) Commissioners with expertise in Telecommunications, and whose work exclusively on the regulation of telecommunications services. CETEL will retain its size of (5) Commissioners, however just two (2) CETEL Commissioners will have expertise in Telecommunications. The majority of Commissioners of CETEL will have expertise in Energy.

Finally, PRBT does not support attempts under P del S 882 to implement Internet and Broadband regulation. The federal government has preempted states from regulating Internet access services, including Broadband access. Such governance is contrary to public policy, could lead to far ranging implications on the free flow of information worldwide, and should not be implemented without careful evaluation, input and extensive dialog with all citizens.

It is important to clarify that all taskforce members representing la Junta Reglamentadora de Telecomunicaciones de Puerto Rico and the office of the CIO of Puerto Rico have abstained from subscribing to this document.

Attached is a hard copy of the Puerto Rico Broadband Strategic Plan for the record, which is also available for download from the PRBT's website at www.prbroadband.org.



Eduardo Díaz
PRBT President

Cc: PRBT members