



**TESTIMONY OF RICARDO PORTELA
VICE-PRESIDENT OF TECHNICAL OPERATIONS LIBERTY MOBILE USVI INC. AND BROADBAND VI
BEFORE THE 35TH LEGISLATURE OF THE VIRGIN ISLANDS
COMMITTEE ON HOUSING, TRANSPORTATION AND TELECOMMUNICATIONS
OCTOBER 3, 2023**

Mr. Chairman, members of the 35th Legislature's Committee on Housing, Transportation and Telecommunications, senators, legislative staff, ladies and gentlemen, I am Ricardo Portela, Vice-President of Technical Operations for Liberty USVI and Broadband VI, collectively Liberty. I appreciate the opportunity to appear before this Committee to provide an update on ongoing work, present infrastructure projects and plans for future development. I take this opportunity to introduce Victor Vera, Director of RAN Engineering, Jose Arias, Director of Construction, Wanda Pérez, Government Affairs Internal Counsel and Catherine Kling, Director of Commercial Sales who can take your questions later.

As we mentioned the last time we were here, back in April of this year, Liberty has already started construction of the Connect USVI program which requires we build fixed broadband service to all locations in the USVI with speeds of 1 gigabit per second. This program is funded partially by the Federal Communications Commission (FCC) with private funding from Liberty. Liberty will have six years to complete the network expansions, upgrades, disaster preparation and resiliency projects to which it committed. Network extension focus is on underserved (rural, remote) areas. Approximately 85% of Liberty's Network will be built underground, providing better resiliency against natural disasters. We are required by the FCC to build 40% (18,400 home passes (HPs)) by 2024, 60% (27,600 HPs) by 2025, 80% (36,800 HPs) by 2026 with project completion by 2027.

Unfortunately, permitting delays have not allowed us to build at the speed required to ensure we complete our milestones on time. To this day we have submitted to DPW 75 permit packages which are the equivalent of 19,332 home passes. DPW has approved 18 permit packages that amount to 4,000 home passes and still has 57 packages waiting approval. These remaining packages would amount to 15,332 home passes. We continue conversations with DPW to try to get our permit packages approved in a more expedient way. Some permits have been submitted for several months and we haven't received an answer. We have agreed to provide a 5-year warranty and a third-party inspector for all the work. We have reached an agreement on these, in the hope that the process moves along expediently in the future. Unfortunately, we feel that DPW keeps adding criteria which are not part of the permit process.

Liberty has the necessary materials and equipment to build out in the Territory, as well as an engaged contractor. Now, we need 100 miles of continuous work every year to build out in a more effective and efficient manner to meet our milestones. For this we need the permits that account for the HPs targets. This would allow us to move forward faster to reach our milestones in time.

These projects as designed, will provide underground fiber optic cables that will protect our infrastructure from natural disasters and make it more resilient. This construction will also improve telecommunication broadband services, increase bandwidth capacity to existing mobile cell sites,

provision service to new cell sites for FirstNet, that provide coverage to first responders, and provide broadband services to all homes and businesses within the permit designated areas.

Liberty currently has 10 projects in the construction phase. These projects are:

1. Sallys Fancy (STX)
2. Clairmont (STX)
3. Donoe (STT)
4. WTJX Mt.Top (STT)
5. Williams Delights 1 (STX)
6. Williams Delights 2 (STX)
7. Williams Delights 3 (STX)
8. Smith Bay (STT)
9. Green Cay (STX)
10. East End (STX)

The locations for 2023 were identified along with DPW (and to a large extent, recommended by DPW) based on other utilities and paving work that are taking place and the sequencing of those coordinated efforts. Another key criterion is that Liberty wanted to start in locations that are more accessible first to focus our resources and also to prove the concept to DPW and to the market.

If we are able to complete 4,000 home passes in 2023, during 2024 Liberty needs to build approximately 14,400 homes to reach the total of 18,400 required to meet our 40% deployment milestone by December 31, 2024. Liberty's existing buildout plans include making its services available to homes and businesses in every location it completes within a matter of weeks after completion. We are completing Liberty's core broadband network and have already made trial connections for certain customers to the network.

As we mentioned earlier, 85% of the buildout will be underground, but 15% will be aerial. For this, as we stated the last time, we were here in April, we need pole attachment rights from WAPA. We have been trying to get a pole attachment agreement with WAPA for more than a year. Liberty has faced serious headwinds with respect to WAPA and the imperative need for a pole attachment agreement. This interconnection must be secured in order for us to meet our federally mandated milestones in the Connect USVI federal program. Liberty's first communication to WAPA regarding the pole attachment agreement was sent on June 3, 2022. Multiple follow up emails were sent including Mrs. Dionne Sinclair, General Counsel at WAPA, asking to start negotiations on a pole attachment agreement. On November 9th, 2022 we received an email that indicated the Authority intended to undertake a survey to inventory pole attachments and that "blanket authority" for Liberty was premature. However, they added that if we had "targeted identifiable poles for which data is available as to location and present attachments, then we can discuss." Based on that, we sent individual locations for pole attachments. We followed up again on various occasions. A draft pole attachment agreement was also sent to Don Gregoire at WAPA who had communicated that he would review it, but to date no progress on that has been made. Through our legal counsel on the Territory, we have also made several attempts. Including a formal letter to General Counsel Sinclair quoting 47 U.S.C.A. § 224:

“(1) A utility shall provide a cable television system or any telecommunications carrier with non-discriminatory access to any CONFIDENTIAL AND PROPRIETARY INFORMATION FILED UNDER SEAL pole, duct, conduit, or right-of-way owned or controlled by it.”

Liberty management has also had conversations regarding this topic with various government officials, including WAPA’s CEO. On September 19 of this year, we received an email from Mrs. Sinclair that stated that they performed the “assessment in regard to the Liberty Attachment request. There were 5 routes recognized, and the poles with WAPA equipment were counted. (...)More details would be available at the conclusion of the GIS project in February 2024.” The email added that “We are currently revising our pole attachment agreements to comport with the new safety standards.” So, unfortunately, after more than a year of requests, and even providing a draft for the agreement, we still don’t have pole attachment rights and don’t know when we will get them which jeopardizes our ability to comply with our federally imposed milestones for the Connect USVI program, and moreover to deliver our commitment with the Islands. It is important to note that this will jeopardize any construction with federal funds that requires aerial construction.

I can’t stress enough the importance of getting attachment rights to WAPA poles. In order to meet our federal mandates under the Connect USVI Fund, the pole attachment agreement is a necessary predicate. This is certainly an area where we need cooperation from the Senate. Liberty wants to maintain a good working relationship with existing utilities, and to improve the communication and responsiveness with those relationships.

In terms of mobile coverage, the USVI has 33 sites all of which have LTE technology while 18 have 5G technology. These sites cover 99% of the population, according to the last Census. Out of these sites, 52% have fiber backhaul which means that more than half of the sites have resilient backhaul with high bandwidth.

We also have 36 deployment projects scheduled to for 2023 which include the following:

(2)- 5G overlay projects

This will help to extend this technology to all residents in USVI.

(2)- Site relocations in St. Thomas and St. Croix

This will allow us to move our infrastructure to areas where they will provide better service or more coverage.

(14)- LTE/5G expansion projects

These are to install 5G technology in already existing sites improving the service speed for customers using those sites.

(10)- C-RAN (small cells)

We also have plans to install C-RAN or small cell infrastructure in ten locations where traffic is dense or have little coverage. This technology is important because it can help with network densification by shifting traffic from macro cell sites and adding capacity to the wireless network. Now, this technology can be very effective in the USVI and can help us reach our coverage targets, but the USVI does not have a small cell law or regulation. Without legislation or specific regulation, there is no clear path to proceed, and implementation of these small facilities will be challenging. More than 30 states across the nation have already implemented small cell legislation that streamlines regulations to facilitate 5G deployment. In the past we have sent a draft small cell bill to this

Committee for evaluation. We hope this 35th Senate can move forward with this legislation to create a clear permitting process to improve telecommunication services in the Territory.

(8) New site builds (monopoles)

We also aim to address coverage and capacity issues with eight additional new site builds or monopoles. Two of these new sites will be in St. Thomas, one in St. John and five will be located in St. Croix.

Most of these sites are part of the commitment between the USVI government and the FirstNet Authority. Including an additional NSB which is already on-air in the West End area of St. Croix. As you all know, FirstNet is an independent authority within the U.S. Department of Commerce designed to build and operate a nationwide broadband network (Band 14) that allows first responders to have a reliable communication system in place before, during, and after a natural disaster. For this, it is deploying the first nationwide, high-speed wireless broadband network for public safety. The network will give priority to first responders to send voice or text messages, images, video, and location information in real-time in cases of emergency. After a competitive process the FirstNet Authority entered into a public-private partnership with AT&T to build the network and deliver the required services to maintain the network.

After our acquisition of AT&T operations in the USVI, Liberty became a FirstNet reseller and agreed to take on AT&T's buildout obligations in the USVI. That meant building 8 new site builds with Band 14 capacity and coverage in specific sites throughout the territory.

These towers will provide needed coverage for first responders, through Band 14, in case of an emergency. Band 14 can be seen as a "fast lane" that provides highly secure communications regularly and in emergencies. Wireless networks can become overloaded and inaccessible during emergencies and in large events. In those cases, Band 14 will prioritize first responder communications providing that dedicated "fast lane" to secure and accessible broadband communications. These features are not available in a regular wireless networks.

These towers will not only allow for the installation of Band 14, making the areas more secure in any event, but they will also allow us to provide service or improve coverage to regular customers in the area.

Liberty is committed to providing great service and coverage to all Virgin Islanders. As part of this commitment Liberty has already installed Band 14 capabilities to 18 LTE sites, providing more coverage than that included in the original commitment with AT&T. Because of this investment, right now the USVI has 97% Band 14 coverage and is forecasted to have 99% coverage by the end of the year. We also have a new location, not related to FirstNet, in the Yatch Haven store that improves coverage and capacity to the area. We are in the construction phase of sites in Sallys Fancy and Green Cay in St. Croix which we hope will be on air by the beginning of 2024.

With all these improvements, coverage has significantly improved with respect to 5G. Last year we had 87.34% 5G coverage. This year we have 93.02%. We also improved LTE coverage by 1% this year.

Finally, we have been updating our customers to our new Liberty systems. This process will be ongoing for several months. We have been communicating with customers via email and SMS since last year in preparation for the update. Some customers need to reconfigure or change their device

to ensure a successful update. We are providing replacement devices free of charge, so there is no investment required on the part of the customer. The updates to our new systems are made gradually and each customer is notified a few days before when they will be updated.

As we have mentioned in previous appearances, we hope to partner with this Legislature and the Government of the Virgin Islands as a whole and be agents of change to provide improved telecommunications services to Virgin Islanders. Improving the permitting process will allow us to cover areas that remain uncommunicated or with poor service faster, with the implications that brings during a natural disaster, or any sort of emergency. This situation has become an urgent matter for Liberty and we are considering elevating the matter to other forums seeking a resolution. Delays in DPW permitting and the lack of a pole attachment agreement with WAPA are putting in jeopardy federal money that was allocated to take high speed broadband service to all Virgin Islanders and we request urgent action on this matter.

Once again, I thank you for this opportunity to appear before you today. Please let me know if I can provide you any additional information or clarification. I would welcome any questions that you may have.

Respectfully,

Ricardo Portela