

**TESTIMONY OF BALA BALAKRISHNAN
GENERAL MANAGER OF LIBERTY MOBILE USVI INC. AND BROADBAND VI
BEFORE THE 35TH LEGISLATURE OF THE VIRGIN ISLANDS
COMMITTEE ON HOUSING, TRANSPORTATION AND TELECOMMUNICATIONS
APRIL 24, 2023**

Mr. Chairman, members of the 35th Legislature's Committee on Housing, Transportation and Telecommunications, senators, legislative staff, ladies and gentlemen, I am Bala Balakrishnan, General Manager of Liberty Mobile USVI and Broadband VI, collectively Liberty. I appreciate the opportunity to appear before this Committee to discuss the status and of telecommunications in the Territory. I take this opportunity as well to introduce Luis Mendez, Senior Regulatory Manager and Victor Vera, Director of RAN Engineering who can take your questions later. I will address the topics as outlined in the invitation for the hearing.

- **Status of present infrastructure projects and plans for future development.**

Liberty has already started construction of the Connect USVI program which requires we bring fixed broadband service to all locations in the USVI with speeds of 1 gigabit per second. At the moment we have received eight approved excavation permits from the Department of Public Works (DPW) for construction in St. Croix and St. Thomas. In addition, we have submitted thirteen permit applications that are still being worked on by DPW. We are continuing to work on additional designs and permit application packages to enable us to construct fiber for at least 10,000 homes in 2023, that we plan to submit for approval within the next several weeks.

These projects as designed, will provide underground fiber optic cables in a majority of the areas, and 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 started underground construction on Sally's Fancy Road and thereafter in the following areas.

1. Green Cay
2. Clairmont
3. Westend
4. East End
5. St. Croix East
6. Smith Bay (Point Pleasant)
7. Smith Bay (Sapphire)
8. Smith Bay (Pineapple Village)

The locations for 2023 were identified along with DPW (and to a large extent, recommended by DPW) based on work planned or desired by other utilities, paving work that is taking place and the sequencing of those based on coordination with the other utilities. 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. Liberty's existing buildout plans include making its services available to homes in every location it completes within a matter of weeks after completion. The only constraint currently is the completion of Liberty's core broadband network - after which we should be able to iteratively offer and turn up service area by area as each subproject's construction is completed.

Currently, Liberty has identified approximately 73 Fiber to the Home projects for the next two years. This number will increase as engineers continue their field surveys of the entire Virgin Islands.

As of April 18, 2023, Liberty has built approximately 59,431 feet of micro duct territory wide. Liberty, with its contractor Atlantic Engineering Group (AEG) has submitted permit applications for FTTH construction for approximately 5403 homes. Of that amount, we received permits for 1651 homes. The remaining 3,752 homes are pending 13 permit applications approval from the DPW. In addition, we plan to submit 52 permit application packages covering 11,000 homes in the next several weeks.

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 37 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 clients using those sites.

(9) New site builds (monopoles)

We also aim to address coverage and capacity issues with nine additional new sites builds or monopoles. Two of these new sites will be in St. Thomas, one in St. Johns and six will be located in St. Croix. Most of these sites are part of the commitment between the USVI government and the FirstNet Authority. 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, 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 network.

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. The Coral Bay site in St. Johns, for example, will provide improved coverage service to an area of approximately 2.2 square miles which includes the following wards: Coral Bay, Ede, Palestina, Carolina, and Calabash Boom. Sections of Highway 108 and Highway 10 will also see improved services.

The build out of these projects have been going on for over 5 years, since the beginning of 2018, and has been delayed significantly due to permitting issues and other community related challenges. These challenges have not only caused significant delays but have led to the citizens of USVI suffering from lack of coverage and capacity. The timely completion of these monopole build outs is critical for not only providing the much-needed access to first responders, but also to alleviate the coverage challenges our citizens face.

(10) C-RAN (small cells)

In order to continue to improve coverage, we also have plans to install C-RAN or small cell infrastructure in ten locations in 2023, 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. This will enable us to deploy additional small cells in areas that are harder to reach and where larger towers are less feasible.

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.

- Strengths, Weaknesses, Opportunities and Threats, from your organization’s standpoint, in the present commercial, regulatory and environment as it regards telecommunications in the territory.

We see multiple opportunities to streamline and improve certain processes that will allow for a faster buildout and a better network.

First, 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 program. Liberty’s first communication to WAPA regarding the pole attachment agreement was sent on June 3, 2022. A follow up email was sent on June 22, 2022. Then on July 26, 2022 we wrote to Mrs. Dionne Sinclair, General Counsel at WAPA, asking to start negotiations on a pole attachment agreement. Additional follow up emails were sent on September 2, 2022, September 30, 2022, and October 31, 2022. Unfortunately, no response to these communications was received. After many months, WAPA finally responded on November 7, 2022 with a nondisclosure agreement (“NDA”) and a Memorandum of Understanding for providing GIS information from a 2009 study. Liberty immediately provided comments to the NDA and on November 9, 2022 sent WAPA a draft Pole Attachment Agreement for their review. Contemporaneously, we received an email on November 9th 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 and no response was received. Comments to the MOU were sent on November 11, 2022. No response was received either. On November 29 Liberty sent another email to Mrs. Sinclair, other WAPA executives and the WAPA Legal Department asking if they had been able to review the documents so we could discuss. No answer was received. Additional follow up emails were sent on December 6, 2022 and again on December 28, 2022. The draft agreement was recently sent to Don Gregoire at WAPA who has 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 pole, duct, conduit, or right-of-way owned or controlled by it.”

This letter, sent on August 29, 2022, quoted additional language from the Communications Act that state that the utility is required to grant access within 45 days of a written request, and , if it cannot be granted for permissible reasons, the utility must deny the request by the 45th day.¹

After that, on September 2, 2022, we requested a meeting, which has not been granted yet. Liberty management has also had conversations regarding this topic with various government officials. Simply put, in order to meet our federal mandates under the Connect USVI Fund, the pole attachment agreement is a necessary predicate. Unfortunately, in most instances, WAPA is unresponsive to our communications, and even when they have responded they have been unwilling to provide the agreement. This is certainly an area where we need assistance form the Senate. Liberty wants to maintain a good working relationship with existing utilities, and to

¹ 47 C.F.R. § 1.1403.

improve the communication and responsiveness with those relationships. Due to the vitally important nature of the pole attachment agreement, we respectfully request your assistance in the enforcement of timely interconnectivity throughout the Territory, and specifically with respect to the statutorily mandated interconnections such as this one with WAPA.

Another area of opportunity is establishing clear permitting processes in DPNR and DPW and allocating funds so these entities can have the required personnel to manage all permit applications efficiently. Liberty began working with DPW on necessary permits to start the Connect USVI buildout as early as March/April of 2022, and the first set of permit applications were delivered August of 2022. DPW did not approve the first permit in that package until January 2023. The practical implications of these regulatory delays have direct impact on our ability to meet the FCC's milestones, notwithstanding the delays in providing significantly improved mobile coverage and improved broadband connectivity to the citizens of USVI.

Specifically, although we file permit applications in the order we wish to perform construction, DPW will inform Liberty which ones they will approve permits for at any specific time. For the first set of permits, this coordination took several meetings with DPW and multiple location changes. Some of DPW's reasons for the delays are the following: i) they do not have enough people to review and approve permits; ii) excavating in areas where other utilities plan to do work. (WAPA Electrical & Water, VIWMA sewer replacement); iii). challenges over responsibility for covering the cost of relocation of the Liberty/BBVI underground facilities when other government-owned utilities plan to construct and are in conflict, to name a few. DPW also requested a warranty of 5 years and insisted on the right to verify every location to monitor exactly how we lay conduits. We have reached an agreement on most of these, in the hope that the process moves along expediently in the future. We continue to work with DPW to facilitate compliance with all their requests and have significantly improved working relationships with the agency. Nevertheless, the bottlenecks that DPW has, including lack of personnel and continuous refinement of requests, continue to impact our ability to progress in our effort to bring better coverage and connectivity to the virgin islanders.

A similar situation has happened with FirstNet construction permits in DPNR. Even though we had a meeting with DPNR to go over the documents required to build interim sites, we had to have a second meeting months after to go over the documents again and the exceptions provided in the regulations. Unfortunately, the permitting process has taken so long that Liberty missed its building deadline with AT&T and the FirstNet Authority. An extension was negotiated, but while the rest of the nation had most of its new FirstNet sites built by the deadline, in USVI none were built due to multiple factors.

DPNR has also cited lack of personnel for some delays, such as the loss of their groundwater program manager. Other issues have been misplaced documents or applications where we have had to go back with evidence of submittal. We have had simple permits such as a "soil boring permit" take more than 15 weeks and scheduling a public hearing for a building permit has taken up to 20 weeks. We need a more efficient process to manage these permits so that we can meet our deadlines and improve the network. These sites are designed, and locations have been secured for all but 2. We just need an efficient permitting process to start work. Please note that these issues will only get worse as other major construction projects kick off.

- **Update on your entity’s applications, receipt, and planned or present utilization of federal broadband funding programs.**

We have already mentioned our plans with the Connect USVI program earlier. Apart from that, on 9/30/2022, Liberty submitted its application for a project under the Middle Mile Broadband Infrastructure Grant Program (the “MMG”). The MMG is managed by the National Telecommunications and Information Administration (the “NTIA”). Liberty’s proposal is currently under review by NTIA grant officers. NTIA intends to make announcements of award winners this spring, but will not commit to a specific date.

- **Update on Implementation of Call Before You Dig (Act No. 7798) o Your organization’s current experiences, whether as an excavator, facility owner or government official, with the operations of Call Before You Dig; o Your ideas and recommendations as to how the language or the implementation of VI laws regarding coordination between underground excavators, facility owners and the government;**

Act No. 7798 is pending implementation from the pertinent authorities. Liberty communicates and meets regularly with DPW and other utilities to coordinate construction.

- **Plans for improving and expanding customer service, connections speeds and service coverage areas in the Virgin Islands;**

Liberty is currently in the process of recruiting more customer service agents and installation and repair technicians to expand our customer service. Additionally, we are exploring plans to move our telephone customer service from outside the territory to the Virgin Islands.

- **Updates on cybersecurity from the standpoint of telecommunications customers, as well as commercial and governmental entities.**

We believe that consumers should have the right to understand how all companies collect, use, and store their data. We also believe that a company’s ability to use and share consumer data can potentially provide a superior customer experience through greater access to information or services relevant to them. In response to these dual imperatives, our parent company Liberty Latin America has created a Privacy Office, appointed a Data Privacy Officer, and assembled a Data Privacy Task Force to align our strategy for addressing data privacy issues across all companies. The Privacy Office has the primary responsibility to implement recommendations from the task force, including developing a group wide Data Privacy Policy, which we will apply across all markets and provide easy-to-use tools that allow customers to tell us how they want us to use and share their data. Liberty Latin America also established a Global Information Security Office and implemented a governance, risk, and compliance program, including security and awareness training for all employees. In addition, the company continues to enhance information technology controls, secure networks, and security monitoring. In our overall cybersecurity program, we implement security technology to protect data, applications, devices, and networks by partnering with many of the world’s leading companies to provide comprehensive protection of our networks, products, and services for our customers.

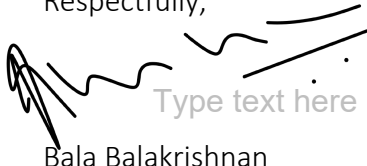
We believe in digital literacy, and we have sponsored programs to educate and empower people on how to use technology safely and responsibly. This year Liberty Foundation awarded a \$10,000

grant to Y-Teens VI of St. Thomas to support digital education for girls throughout the year. This year we also celebrated Safer Internet Day in the USVI for the first time with a conference on cyberbullying and information on how to surf the web safely. On this link, <https://www.libertyvi.com/surf-web-safely>, our customers can find more information and tips to use the web safely.

As I 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 telecommunication 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.

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,



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Bala Balakrishnan