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January 31, 2012

E-FILED

Honorable Jaclyn A. Brillling
Secretary
New York Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

**Re: Case 09-M-0527
Proceeding to Examine Issues Related to a Universal Service Fund.**

Dear Secretary Brillling:

On behalf of the NYSTA Smaller ILECs as noted in the attached, and pursuant to the January 4, 2012 "Notice Establishing Schedule For Filing Exceptions, Seeking Comment on Reassertion of Public Service Commission Jurisdiction Over Wireless Telephone Companies for State Universal Service Fund Purposes, and Seeking Comment on Further Extension of the Transition Fund," issued in the above-captioned proceeding, attached for filing is the "Reply Comments of the NYSTA Smaller ILEC Members in Support of Extension of the Transition Fund."

Please direct any inquiries concerning this matter to the undersigned.

Sincerely,



Thomas J. Moorman
Counsel to
the NYSTA Smaller ILEC Members

cc: All parties of record (via email)

**BEFORE THE
STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

CASE 09-M-0527: Proceeding to Examine Issues Related to a Universal Service Fund.

**REPLY COMMENTS OF THE NYSTA SMALLER ILEC MEMBERS IN SUPPORT OF
THE EXTENSION OF THE TRANSITION FUND**

Pursuant to the January 4, 2012 “Notice Establishing Schedule For Filing Exceptions, Seeking Comment on Reassertion of Public Service Commission Jurisdiction Over Wireless Telephone Companies for State Universal Service Fund Purposes, and Seeking Comment on Further Extension of the Transition Fund,” issued by the New York Public Service Commission (“Commission”) (the “*Contribution Notice*”), the NYSTA Smaller ILEC Members¹ oppose those parties that argued *against* the extension of and additional collection and disbursement of funding for the Transition Fund (“TF”) as outlined in the *Contribution Notice*.² For the reasons stated, the common position taken by AT&T, CTANY and Sprint (the “Opposing Parties”) should be rejected and the extension of and additional collection and disbursement of funding for the TF outlined in the *Contribution Notice* should be adopted.

¹ The following companies make up the NYSTA Smaller ILECs group: Armstrong Telephone Company – NY, Berkshire Telephone Corporation, Cassadaga Telephone Corporation, Champlain Telephone Company, Chautauqua & Erie Telephone Company, Chazy & Westport Telephone Corporation, Citizens Telephone Company of Hammond, New York, Inc., Crown Point Telephone Corporation, Delhi Telephone Company, Deposit Telephone Company, Dunkirk & Fredonia Telephone Company, Edwards Telephone Company, Empire Telephone Corporation, Fishers Island Telephone Corporation, Germantown Telephone Company, Inc., Hancock Telephone Company, Margaretville Telephone Company, Middleburgh Telephone Company, Newport Telephone Company, Nicholville Telephone Company, Oneida County Rural Telephone Company, Ontario Telephone Company, Inc., Oriskany Falls Telephone Company, Pattersonville Telephone Company, Port Byron Telephone Company, State Telephone Company, Taconic Telephone Corporation, Township Telephone Company, Trumansburg Telephone Company, Inc., Vernon Telephone Company, and Warwick Valley Telephone Company.

² These reply comments focus solely on the three commenting parties opposing the *Contribution Notice*’s proposed extension of the TF that were filed by AT&T Communications of New York, Inc., the Cable Telecommunications Association of New York, Inc. (“CTANY”) and Sprint Nextel Corporation (“Sprint”). For simplicity sake, the parties’ comments and those of the NYSTA Smaller ILECs will simply use their name with the term “Comments” used with it.

At bottom, each of the Opposing Parties contends that there is no reason to extend the TF because sufficient time exists before the May, 2012 exhaustion of the TF for the Commission to resolve the issues raised in the January 4, 2012 Recommended Decision (“RD”).³ These positions should be rejected.

The NYSTA Smaller ILECs are confident that the Commission was fully aware of the amount of time it believed was necessary between the date that current TF funding would exhaust and Commission decision on the RD followed by the period of time required for the implementation of that decision. No demonstration has been made by the Opposing Parties that the anticipated time frame used by the Commission is unnecessary for the complete resolution and implementation of any Commission decision in Phase II of this proceeding. Moreover, the Opposing Parties’ contentions fail to address the practical issue that disbursements from the TF require advance invoicing and collection by the Targeted Accessibility Fund, Inc. Simply put, these funds do not instantly appear. The Opposing Parties may want the TF to reach an interim financial “cliff”, but that result is short-sighted and, ultimately, a result that the *Contribution Notice* properly ensures does not occur.

The NYSTA Smaller ILECs have already demonstrated that prudent public policy, coupled with the Commission’s own authority, supports the finding that TF dollars remain available during the time period required to reach a final decision on the RD and the implementation of that decision. The Commission previously made clear that continued disbursement of TF funding is necessary and appropriate so that universal service is not

³ See AT&T Comments at 1; CTANY Comments at 2; Sprint Comments at 1.

undermined or threatened during the pendency of Phase II of this proceeding.⁴ This overarching rationale should continue to guide the Commission when it approves the extension of and additional collection and disbursement of funding for the TF as proposed in the *Contribution Notice*.

Accordingly, for all of these reasons stated herein and in their comments, the NYSTA Smaller ILECs respectfully submit that the Commission's TF proposal contained in the *Contribution Notice* should be adopted with dispatch. And, in the decision, the Commission should also make clear that it is retaining the right to direct the collection and disbursements of additional TF monies should the resolution of Phase II issues addressed in the RD require additional time.

Respectfully submitted,

The NYSTA Smaller ILEC Members

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Date: January 31, 2012

Their Attorneys

⁴ See Order Adopting Terms of Phase I Joint Proposal, Case 09-M-0527, released July 16, 2010 at 26-2; Order Modifying Temporary Transition Fund Extension, Case 09-M-0527, issued and effective September 16, 2011 at 5-6; see also NYSTA Smaller ILECs Comments at 2-4.