

STATE OF NEW YORK
DEPARTMENT OF PUBLIC SERVICE

MEMORANDUM

February 1, 2012

TO: Chairman Brown
Commissioners Acampora, Harris, Curry and Larocca

FROM: Howard A. Jack
Administrative Law Judge

SUBJECT: Cases 09-M-0527 - Universal Service Fund: Notice of
Impending Settlement Negotiations

*** **

On January 4, 2012, the Secretary issued for exceptions a recommended decision in Phase II of this proceeding, concerning whether the Commission should establish a State universal service high-cost fund, (Phase II Recommended Decision).¹ The Phase II Recommended Decision had been completed before the Federal Communications Commission released its recent Report and Order concerning the federal Universal Service Fund (FUSF),² but its issuance was delayed until after the FCC Report and Order to accommodate considering potential implications of the FCC Report and Order in the exceptions process.

¹ See Case 09-M-0527, Notice Establishing a 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 January 4, 2012)(January 4 Notice), p. 1.

² *Connect America Fund*, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, *Developing an Unified Intercarrier Compensation Regime*, CC Docket Nos. 01-92, 96-45, *A National Broadband Plan for Our Future*, GN Docket No. 09-51, *Universal Service Fund - Mobility Fund*, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (November 18, 2011).

On January 30, 2012, Verizon New York, Inc., on behalf of itself, the Cable Telecommunications Association of New York, Inc., and "various other parties," filed with the Secretary a notice of impending settlement negotiations on "any or all" issues addressed in the Phase II Recommended Decision "and such other, related issues as the parties wish to discuss." The notice of impending settlement negotiations invites all parties to the proceeding to participate. Negotiations are scheduled to commence by teleconference at 10:00 a.m. on Monday, February 6, 2012. A copy of the notice of impending settlement negotiations has been served on all but one of the parties in the case by electronic mail and posted to DMM. I have now received proof from Verizon that the remaining party has been served by postal mail. I have also received written confirmation from Verizon counsel that no later than Saturday, February 4 all parties but Mr. Flacks will be notified by electronic mail, and Mr. Flacks by postal mail, of the call-in number for the teleconference.

The notice and its timing appear to me to be adequate to afford all interested parties a reasonable opportunity to participate in the negotiations.

If any Commissioner has any specific issue he or she wants addressed in the negotiations, please let me know and I will inform the parties.

This is a public document and will be posted in DMM.

cc: J. Lee C. Hume
 J. Cohen D. Stout
 M. Corso D. Elfner
 W. Boutillier S. Sloane
 J. Brilling J. Cleary
 J. Denn J. Hogan
 P. McGowan P. Catalano
 E. Liebschutz J. Parella
 M. Reeder