

HISCOCK & BARCLAY^{LLP}

Maureen O. Helmer
Partner

January 4, 2013

VIA ELECTRONIC MAIL

The Honorable Jeffrey Cohen
Acting Secretary
New York Public Service Commission
Empire State Plaza
Agency Building 3
Albany, NY 12223-1350

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

Dear Secretary Cohen:

Enclosed please find the "Statement in Support of the Phase III Joint Proposal by Time Warner Cable Inc. and Cablevision Systems Corp." for filing in the above referenced matter.

Very truly yours,



Maureen O. Helmer

MOH:lm
Attachments

cc (via email): Julie Laine, Time Warner Cable Inc.
Elana Shapochnikov, Cablevision Systems Corp.
Allison Lee, Cable Telecommunications Association of New York, Inc.

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**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

Proceeding to Examine Issues)
Related to a Universal Service Fund)

CASE 09-M-0527

**STATEMENT IN SUPPORT
OF THE PHASE III JOINT PROPOSAL
BY TIME WARNER CABLE INC. AND
CABLEVISION SYSTEMS CORP.**

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Dated: January 4, 2013

**STATE OF NEW YORK
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CASE 09-M-0527

**STATEMENT IN SUPPORT
OF THE PHASE III JOINT PROPOSAL
BY TIME WARNER CABLE INC. AND
CABLEVISION SYSTEMS CORP.**

Time Warner Cable Inc. (“TWC”) and Cablevision Systems Corp. (“CSC”) hereby submit this Statement in Support of the Joint Proposal and Settlement Agreement (“Phase III Joint Proposal” or “JP”) in response to the Honorable Howard Jack’s Procedural Ruling in this case.¹ The Phase III Joint Proposal was filed on November 19, 2012 and was signed by the majority of the active parties involved in this collaborative, including Time Warner Cable Inc. and the Cable Telecommunications Association of New York, Inc. (“CTANY”).²

The Phase III Joint Proposal reflects the signatories’ belief that further action on intrastate access charges in New York is not warranted at this time, pending further Federal Communications Commission (“FCC”) action addressing the switched access issues identified in its FNPRM.³ If the FCC does not act by July 2014, the JP also requests that an Administrative Law Judge convene a meeting of the parties to determine what, if any, action should be taken.

As to the remaining Phase III issues, the Joint Proposal avers that no changes to the Targeted Accessibility Fund (“TAF”) are necessary at this time, but establishes a series of ‘gates’ during which parties can raise TAF issues or request a review of TAF.

Time Warner Cable Inc. and Cablevision Systems Corp. respectfully submit this Statement in Support of the Phase III Joint Proposal as furthering regulatory efficiency, protecting consumers, and being in the overall public interest.

¹ Case 09-M-0527 - *Proceeding to Examine Issues Related to a Universal Service Fund*, Ruling on Phase III Procedure (“Procedural Ruling”) (Issued Dec. 7, 2012).

² The Cable Telecommunications Association of New York, Inc. (“CTANY”) withdrew its active participation in this case on January 4, 2013. Time Warner Cable Inc. and Cablevision Systems Corp. were both active participants in this proceeding on their own behalf and as members of CTANY.

³ *Connect America Fund et al*, WC Docket No. 1090 et al., Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, 26 FCC Rcd. 17663 (Nov. 18, 2011) (“FNPRM”).

The Signatories to the Phase III Joint Proposal Represent Diverse Interests

The signatories to the Phase III Joint Proposal do not simply constitute the vast majority of the parties to this proceeding; they represent diverse interests with respect to both of the major issues being addressed in Phase III of this proceeding (access charges and TAF). The signatories included the New York State Department of Public Service staff (“DPS Staff”); the New York State Department of State, Utilities Intervention Unit; the Cable Telecommunications Association of New York, Inc. (CTANY); Cellco Partnership d/b/a Verizon Wireless (Verizon Wireless); Frontier Communications New York Incumbent Local Exchange Carriers; Level 3 Communications, LLC (Level 3); the NYSTA Smaller ILECs (31 incumbent local exchange carriers listed in Appendix A to the JP); Time Warner Cable Inc.; tw telecom of new york l.p. (tw telecom); Verizon; and Windstream Communications.

It is important to note that not all of the signatories to the Phase III Joint Proposal have an economic interest in the access charge issue. DPS Staff represents the overall public interest in cases before the Commission.⁴ The Department of State’s Utility Intervention Unit “intervenes on behalf of consumers regarding utility-related matters before state and federal utilities regulators”⁵

Also noteworthy is the fact that T-Mobile, while not a signatory to the JP, submitted a letter dated November 29, 2012 regarding the Phase III Joint Proposal in which it stated, “The need for intrastate access charge reform in New York State has changed in light of the Federal Communications Commission's ("FCC") November 18, 2011 ‘ICC-USF Transformation Order’” The diversity of parties supporting and not opposing this settlement proposal therefore points strongly in favor of adoption of the proposal.

The Phase III Joint Proposal’s Access Charge Provisions Enhance Regulatory Efficiency and Protect Consumers

As noted above, in the Honorable Jack’s Procedural Ruling, and in the JP itself, the FCC is actively reviewing all access charge issues in a meaningful way and with a specific schedule. While

⁴ “The New York State Department of Public Service is a signatory to the Joint Proposal because we believe it is in the public interest to wait until the FCC has acted on these rates.” Case 09-M-0527 - *Proceeding to Examine Issues Related to a Universal Service Fund*, Procedural Conference (Nov. 27, 2012) at 24.

⁵ *Welcome to the Division of Consumer Protection*, DEPARTMENT OF STATE, <http://www.dos.ny.gov/consumerprotection/aboutus.html> (last visited Jan. 3, 2013).

aspects of that schedule may not be satisfactory to some parties, parallel, potentially inconsistent state action will not serve New York's consumers nor its market participants. Disparate outcomes could result in regulatory as well as economic waste. Moreover, state action that could potentially conflict with FCC rules on access charges threatens to inject regulatory uncertainty into the state telecommunications market. This, in turn, could create disincentives for expansion or new entry of voice services.

In addition, the JP does not result in an open-ended deferral of these issues. If the FCC schedule does not meet expectations, and no action is taken by July 2014, the JP suggests that the parties reconvene, under the guidance of an ALJ, to discuss what actions, if any, are appropriate.

Changes to the TAF are Unnecessary at this Time

The working groups assigned to examine TAF issues during this proceeding did not recommend any changes to the TAF for the near future.⁶ In addition, as noted by the Honorable Jack in his Procedural Ruling, none of the parties expressed opposition to the Phase III Joint Proposal's finding and recommendation that no changes to TAF are necessary at the present time. The JP contains more than ample opportunities to raise these issues should circumstances change unexpectedly and dramatically sufficient to justify review of the size or composition of the TAF, such as giving opposing parties the ability to refute or counter such proposals.

The Commission Should Adopt the Phase III Joint Proposal as Being in the Public Interest

As noted above, the Phase III Joint Proposal is supported by a diverse group of parties that represent market participants on all sides of the economic issues as well as public interest and consumer representatives. The JP facilitates regulatory efficiency and is within the range of outcomes that likely could have arisen out of additional litigation. It is based on a voluminous record in a case that has spanned over three years. Time Warner Cable Inc. and Cablevision Systems Corp. respectfully urge adoption of the Phase III Joint Proposal in its entirety as being in the public interest.

⁶ Case 09-M-0527 - *Proceeding to Examine Issues Related to a Universal Service Fund*, Staff Report on Targeted Accessibility Fund, (filed Oct. 2, 2009).

Respectfully submitted,

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