Honorable Kathleen Burgess, Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, NY 12223

June 27, 2018

Re: Case 17-M-0815 – Proceeding on Motion of the Commission on Changes in Law that May Affect Rates.

Dear Secretary Burgess,

The undersigned companies hereby file this letter as comments on the Staff Proposal to Address the Accounting and Ratemaking of the Tax Cuts and Job Act of 2017 (Staff Proposal) issued on March 29, 2018 in the above referenced proceeding.

With these comments, we will provide our reasoning and additional data why we believe the public interest would best be served by rejecting the Staff Proposal as it pertains to our subset of incumbent local exchange carrier companies (ILECs) that receive State Universal Service Fund (SUSF) support. Collectively, the companies addressed in this response serve less than 13,000 access lines.

Unlike the other industries regulated by the Commission that are parties to this proceeding, the telecommunications industry has seen significant structural, technological and economic changes over the past few decades which has resulted in a telecommunications marketplace that is now significantly competitive in the more densely populated parts of the ILECs' service

areas with both regulated and non-regulated providers serving New York's telecommunications needs.

Recognizing this fact, the Commission has made changes over the years to how it regulates the ILECs. As described in the Staff Proposal, the Commission provided pricing flexibility to the two largest ILECs, Verizon and Frontier of Rochester in 2006 and established a framework for the remaining 38 ILECs in 2008 to seek and obtain pricing flexibility.

However, to ensure the State's Universal Service goals continue to be met in the rural, higher cost to serve areas of the state, the Commission established a SUSF "to ensure continued availability of basic local residential service in their service areas"[1] . To date, twelve companies have obtained approval from the Commission to draw SUSF funding after completion of their respective rate case proceedings.

Recognizing these changes to the telecommunications industry with the advent of competition and the resulting regulatory flexibility granted by the Commission, the Staff Proposal originally recommended that 32 of the state's 40 ILECs be exempt from any rate or deferral actions as a result of the new tax law given the unique situation faced by the ILECs as compared to other utilities regulated by the Commission. As noted below, further analysis and revisions were completed by Staff which altered the potential companies impacted by the Staff Proposal.

The distinguishing feature of the companies for which the Staff recommends rate action be taken is that because they receive a portion of their revenues from the SUSF as determined in their most recent rate case utilizing a 34% tax rate versus the presumed impact of the new 21% tax rate, their SUSF support "or overpayment" should be reduced.

[1] Staff Proposal to Address the Accounting and Ratemaking of the Tax Cuts and Jobs Act of 2017 (Staff Proposal) in the Proceeding on Motion of the Commission on Changes in Law that May Affect Rates in Case 17-M-0815 at Page 38.

However, it is very important to note that the companies subject to the Staff Proposal as listed on Attachment A to these comments are experiencing the same competitive pressures as other regulated telephone providers, having seen access line losses since 2001 of between 35 and 75 percent.

Based on this fact alone, the SUSF companies should be granted the same flexibility as other ILECs with regards to the tax law changes. With regard to the Staff Proposal which compares each company's original rate case determined revenue requirement to what the revenue requirement would have been assuming the new lower tax rate focuses only on a specific point in time. However, rather than operating in a static marketplace environment, the SUSF companies operate in a dynamic, ever-evolving marketplace facing significant competitive challenges too.

We believe a more representative analysis should focus on a comparison of each company's last rate case results to current actual results.

This section of our comments will address nine companies currently receiving SUSF payments and, as recommended by Staff, some could be subject to potential ratemaking adjustments through reduced SUSF payments. It should be noted as mentioned above that Staff, subsequent to issuing its Staff Proposal, updated and modified the analysis it relied upon in determining the revenue requirement impacts associated with the tax rate change from 34% to 21%. Based on the updated Staff analysis, and the companies' proposed excess accumulated deferred federal income tax (ADFIT) amortizations, three of the nine companies would experience no ratemaking impact as a result of the FIT rate change and, therefore, no reduction in SUSF payments is warranted.[2] Further analysis and discussion regarding the remaining six companies is presented below. [3]

[2] The three companies are Edwards, Oriskany and Vernon. For purposes of our analysis and comments, Oriskany and Vernon are presented on a combined basis to reflect the merger approval granted in Case 17-C-0608 (Commission Order Issued and Effective February 23, 2018).
[3] The six companies are Chazy & Westport, Germantown, Newport, Pattersonville, Port Byron and Township.

Attachment A provides a summary of the various components of our analysis. As seen in Column (f), the total FIT rate change impact for the three companies identified above is positive, indicating that the combination of their revenue requirement impacts, as adjusted by Staff for the 21% tax rate change, and the companies' proposed excess ADFIT amortizations (See Attachment A, Column e, with additional detail found in Attachment B), exceed their current SUSF payments. As a result, there is no justification for a ratemaking adjustment and, therefore, no reduction to their current SUSF payments is warranted. This conclusion is consistent with the Staff Proposal wherein two companies were initially excluded by Staff from any ratemaking adjustments since their adjusted revenue requirements exceeded their SUSF payments and "The change in tax rate would not have altered the amount granted by the Commission"[4].

While the conclusion that no SUSF reductions are warranted for the three companies identified above is straightforward and supported by Staff's calculations, a look at the "bigger picture" demonstrates that there should be no ratemaking adjustments or SUSF reductions for any of the identified SUSF recipients. By way of explanation and in support of this position, consideration must be given to the static approach taken by Staff in developing its adjusted revenue requirements. Basically, Staff substituted a 21% tax rate for the 34% rate utilized in each company's most recent rate case (Attachment A, Column c) and compared this new revenue requirement to the amount of SUSF support each company was receiving (Attachment A, Column d). If the new revenue requirement was lower than the company's existing SUSF payments, Staff proposed that a reduction in SUSF support should be required. In a somewhat stable operating environment, this methodology may have yielded representative results. However, the telecommunications industry has been far from stable over the past decade and more, including the shorter timeframe since the companies' last rate cases. As a result, there is an inherent mismatch between the simple substitution of a 21% tax rate for the 34% rate and the real effect the tax rate change has on the companies. This mismatch is created by Staff's application of the new 21% tax rate to the net revenues included in each company's prior rate case.

[4] Staff Proposal at Page 40, Footnote 41

To apply a new, lower tax rate to the higher, historic rate case net revenues is a classic apples and oranges analogy. Were the companies' able to experience those higher levels of historic net revenues on a continuing basis, Staff's approach could provide a reasonable impact. However, we know with certainty that net revenues are significantly lower today and are continuing to decline year after year for the SUSF companies. To adjust just one half of a "tax impact" calculation (the lower tax rate), without consideration of the other half (lower actual current net revenues and net impact) creates an inequitable result. Yes, the tax rate did go down, but the companies came nowhere near achieving the higher level of net revenues presumed and utilized by Staff in their prior rate cases. The end result is an incomplete calculation that produces tax expense savings and lower revenue requirements where none actually exist. Using this mismatched/incomplete approach to reduce much needed SUSF support from companies that are achieving far less in net revenues than was provided for in their prior rate cases is unfair and unjust.

As our analysis clearly demonstrates, all of the companies are currently experiencing significantly lower revenues than they were in their prior rate cases, with *reductions* ranging from approximately $66,000 to $538,000 (See Attachment C, Columns a through c). Those higher, historic revenues cannot be relied upon in determining what the true tax effects might be today. In further support of the reasonableness of our net revenue calculations and comparisons, while 2017 revenues are known with certainty, the level of 2017 expenses to be used in developing current net revenues is less certain. In a rate case, Staff would typically have some adjustments that may produce a lower level of expenses to be used in its revenue requirement calculations. To account for this situation in a fair and reasonable manner, we have substituted the lower Staff-adjusted prior rate case expenses for each company's 2017 expenses. The rationale being that if the adjusted level of expense was considered by Staff and the Commission to be reasonable in the not-too-distant past, then it should be a somewhat reasonable proxy for today. Further, to account for those situations where a company's 2017 book expenses are lower than the book expenses at the time of their last rate case, the Staff-adjusted rate case expenses used in our 2017 net revenue calculations have been reduced on a pro rata basis (See Attachment C, Columns d through h).

As has been demonstrated, the decreases in each company's net revenues have been significant, ranging from losses of approximately of $34,000 to $440,000, or reductions of 50% to nearly 200% (Attachment C, Columns i through l). And the amounts by which these net revenue losses exceed any presumed tax-related impacts is equally distressing, ranging from approximately $18,000 to $308,000 lower, or by factors of more than double to 15 times any presumed tax impacts (See Attachment A, Columns i and j).

It is evident that the static approach used by Staff in determining which companies might be subject to reductions in SUSF payments is not representative, resulting in presumed revenue requirement reductions where none actually exist. Clearly, any attempt to reduce SUSF payments today to account for non-existent revenue requirement net tax savings will simply push the companies even closer toward the need for increased SUSF payments in the near future.

In conclusion, the companies addressed herein continue to meet their common carrier/carrier of last resort obligations in some of the most rural, high cost to serve areas of the state with recognition as evidenced by PSC commendations for excellent service quality. They should not be required to refund perceived SUSF overpayments or reduce ongoing SUSF payments based upon a static calculation that does not adequately reflect the reality of their current financial conditions. While the SUSF companies are doing their best to contain and reduce expenses and lower tax rates can contribute to this effort, revenue losses are a continued reality that exceed any tax rate reduction benefits and supports a Commission conclusion that SUSF revenues should not be reduced in this proceeding.

Respectfully submitted,

Jim Forcier

President

Chazy & Westport Telephone Corp.

Bruce Bohnsack

President

Germantown Telephone Company, Inc.

Joseph Tomaino

Vice President/Secretary

Newport Telephone Company, Inc.

Tammy Krisher

President

Pattersonville Telephone Company

Joel P. Dohmeier, Vice President

TDS Telecom for:

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Port Byron Telephone Company

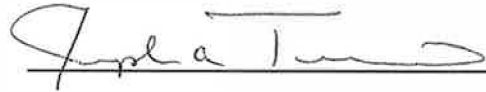
Township Telephone Company Inc.

Vernon Telephone Company Inc.

Bruce Bohnsack

President

Germantown Telephone Company, Inc.



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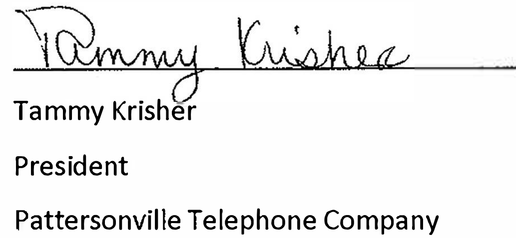

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President

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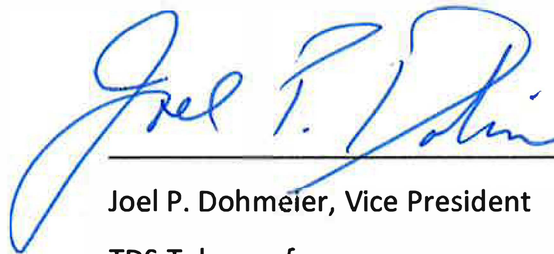

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Tax Reform Impact Analysis - Summary **Attachment A**

	Rate Case #	Rate Case Test Year	a Staff Rate Case Revenue Requirement with FIT @ 34%	b SUSF Amount Granted	c Staff Adjusted Rate Case Revenue Requirement with FIT @ 21%	d Staff Impact of FIT Rate Change	e Excess Def. FIT Amort.	f Total FIT Rate Change Impact	g Intrastate Net Revenue Loss	h SUSF Impact	i Amount By Which Net Revenue Loss Exceeds FIT Impact	j Factor By Which Net Revenue Loss Exceeds FIT Impact
Chazy & Westport	16-C-0241	2015	232,246	232,246	233,057	811	(8,442)	(7,631)	(117,858)	-	(110,227)	15.4
Edwards	14-C-0403	2013	514,657	500,000	516,137	16,137	11,163	27,300				
Germantown	15-C-0628	2014	516,452	500,000	491,340	(8,660)	(9,127)	(17,787)	(115,007)	-	(97,220)	6.5
Newport	13-C-0355	2012	221,099	221,099	198,885	(22,214)	(4,762)	(26,976)	(334,768)	-	(307,792)	12.4
Pattersonville	15-C-0370	2014	168,360	168,360	152,184	(16,176)	588	(15,588)	(33,893)	-	(18,304)	2.2
Port Byron	16-C-0621	2015	260,004	260,004	244,601	(15,403)	(15,596)	(30,999)	(151,261)	-	(120,262)	4.9
Township	15-C-0522	2014	463,279	463,279	428,775	(34,504)	(25,833)	(60,337)	(225,593)	-	(165,256)	3.7
Vernon/Oriskany	13-C-0333 & 13-C-0332	2012	535,445	435,626	509,224	73,598	(1,239)	72,359				

Notes: Vernon and Oriskany Falls are presented on a combined basis to reflect the merger approval in Case 17-C-0608 (Commission Order issued and effective February 23, 2018).

The Staff Proposal originally concluded that the revenue requirements for Deposit and Port Byron were significantly higher than the SUSF authorized in their respective rate cases and that the change in tax rate would not have altered the SUSF amounts granted by the Commission. Staff subsequently updated its analysis, finding that Port Byron's revenue requirement did not exceed its SUSF payments. Therefore, Port Byron is now included above.

Explanations

a Revenue requirements and SUSF amounts are from each company's most recent rate case Orders.

b The authorized SUSF amounts for Edwards, Germantown and Vernon were limited to the dollar threshholds in effect at the time of their respective proceedings in order to qualify as a mini rate case (Edwards is currently recovering its $500,000 through amortization of a deferred credit. Once the amortization is completed, recovery will come from the SUSF).

c Adjusted revenue requirements as determined by Staff ("Telco Summary for Case 17-M-0815 DFT Calc updated 5-18-2018")

d Difference between the Staff adjusted revenue requirement at 21% FIT and SUSF support authorized by the Commission in the company's last rate case. (d = c - b)

e Annual amortization of excess Deferred FIT amounts on company books as of 12/31/17. See Attachment B.

f A positive amount indicates that the combination of the Staff Impact of FIT Rate Change (column d) and excess deferred FIT amortization (column e) exceeds the company's current SUSF payments and, therefore, no reduction in SUSF payments is warranted. (f = d + e)

g The change in intrastate net revenues from the company's last rate case versus 2017. 2017 revenues are as booked. 2017 expenses were set at the amount, as determined by Staff, in the company's last rate case. However, in any instances where book 2017 expenses were lower than the book test year amounts, a pro rata adjustment was made to reflect a reduced level of expense for 2017. See Attachment C.

h If a company's intrastate net revenue loss (g) exceeds the total FIT rate change impact (f), no reduction in SUSF payments is warranted.

i = g - f

j = g / f

Tax Reform Impact Analysis - Excess Intrastate Deferred FIT Balances and Amortizations **Attachment B**

	a	b	c	d	e	f	g	h	i	j	k
	12/31/17 Protected Deferred FIT Balance at 34%	12/31/17 Protected Deferred FIT Balance At 21%	Protected Excess Deferred FIT	Amort. Period	Annual Protected Excess Def. FIT Amort.	12/31/17 Unprotected Deferred FIT Balance at 34%	12/31/17 Unprotected Deferred FIT Balance At 21%	Unprotected Excess Deferred FIT	Amort. Period	Annual Unprotected Excess Def. FIT Amort.	Annual Total Excess Def. FIT Amort.
Chazy & Westport	(286,693)	(177,075)	109,618	12.5	(8,769)	4,279	2,643	(1,636)	5	327	(8,442)
Edwards	150,530	92,974	(57,555)	4.8	11,991	(21,653)	(13,374)	8,279	10	(828)	11,163
Germantown	(286,455)	(176,928)	109,527	12.0	(9,127)						(9,127)
Newport	(146,005)	(90,179)	55,825	9.0	(6,203)	18,844	11,639	(7,205)	5	1,441	(4,762)
Pattersonville	18,444	11,392	(7,052)	12.0	588						588
Port Byron	(253,031)	(156,284)	96,747	6.4	(15,117)	(12,522)	(7,734)	4,788	10	(479)	(15,596)
Township	(499,426)	(308,469)	190,957	7.3	(26,158)	8,517	5,261	(3,257)	10	326	(25,833)
Vernon/Oriskany	(4,900)	(3,027)	1,874	4.6	(407)	(21,759)	(13,439)	8,319	10	(832)	(1,239)

Explanations

a, f	Intrastate Deferred FIT balances were developed from 2017 PSC Annual Report data, incorporating the same Deferred FIT components used in each company's last rate case.
b	= a * .21/.34
c	= b - c
d	Amortization period is based on estimated reversal period using the composite method under RSGM.
e	= c / d
g	= f * .21/.34
h	= g - f
i	Amortization period is based on estimated reversal period to be used.
j	= h / i
k	= e + j

Tax Reform Impact Analysis - Intrastate Net Revenue Change **Attachment C**

		a	b	c	d	e	f	g	h	i	j	k	l
		Intrastate Revenues			**Intrastate Expenses**					**Intrastate Net Revenue**			
	Rate Case Test Year	Staff Adjusted Test Year	2017 Book	Change	Test Year Book Tot Co.	2017 Book Tot. Co.	Staff Adjusted Test Year	2017 Imputed	Change	Staff Adjusted Test Year	2017 Adjusted	Change	% Change
Chazy & Westport	2015	1,449,513	1,331,655	(117,858)	2,283,976	2,379,433	1,309,671	1,309,671		139,842	21,984	(117,858)	-84.3%
Edwards	2013	1,390,798	1,019,851	(370,947)	1,793,845	1,444,863	1,226,339	987,762	(238,577)	164,459	32,089	(132,370)	-80.5%
Germantown	2014	1,570,584	1,455,577	(115,007)	2,496,717	2,759,036	1,376,948	1,376,948		193,636	78,629	(115,007)	-59.4%
Newport	2012	1,660,836	1,314,268	(346,568)	2,530,497	2,509,589	1,428,156	1,416,356	(11,800)	232,680	(102,088)	(334,768)	-143.9%
Pattersonville	2014	449,381	382,940	(66,441)	952,271	870,763	380,267	347,719	(32,548)	69,114	35,221	(33,893)	-49.0%
Port Byron	2015	1,442,312	1,291,051	(151,261)	1,758,819	1,808,908	1,257,130	1,257,130		185,182	33,921	(151,261)	-81.7%
Township	2014	1,877,764	1,464,114	(413,650)	2,409,111	2,125,756	1,598,878	1,410,821	(188,057)	278,886	53,293	(225,593)	-80.9%
Vernon/Oriskany	2012	1,457,828	920,221	(537,607)	1,639,118	1,509,179	1,231,582	1,133,950	(97,632)	226,246	(213,729)	(439,975)	-194.5%
Total										1,490,045	(60,680)	(1,550,725)	-104.1%

Explanations

a Rate Case Order - Net Operating Income Statement

b 2017 PSC Annual Report - Schedule 9

c = b - a

d Rate Case Order - Net Operating Income Statement

e 2017 PSC Annual Report - Schedule 9

f Rate Case Order - Net Operating Income Statement

g If 2017 book total company expenses (e) were greater than test year book total company expenses (d), use lower Staff adjusted test year intrastate expenses.
If 2017 book total company expenses (e) were less than test year book total company expenses (d), reduce Staff adjusted rate case intrastate expenses on a pro rata basis.
g = (e / d) * f

h = g - f

i = a - f

j = b - g

k = j - i

l = k / i