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May 23, 2012

Honorable Howard A. Jack
Administrative Law Judge
Public Service Commission
3 Empire State Plaza
Albany, New York 12223-1350

Re: Case 09-M-0527 – State Universal Service Fund.

Dear Judge Jack:

The Utility Intervention Unit (“UIU”) of the New York State Department of State’s Division of Consumer Protection is a signatory party of the Joint Proposal (“JP”) dated May 7, 2012, which was filed on May 11, 2012, in the above-captioned matter. Significantly, the JP establishes an adequately funded state universal service fund (“SUSF”) available to incumbent local exchange carriers (“ILECs”) (generally, small rural telephone companies) that can demonstrate that the relatively higher cost of providing service exceeds the revenues that reasonably could be recovered from ratepayers. By resolving an issue critical to the UIU and New York’s rural landline telephone customers, the JP continues long-standing state and federal policies safeguarding the ability of all New Yorkers to have access to reliable telephone service.

As the UIU stated in its testimony filed in this proceeding:

Universal service remains as important today as when the Commission issued the Comp II and Comp III Orders. To maintain a healthy civil society it is critical for all of its members to have the ability to communicate with one another. ... “[U]niversal service enhances the ability of all persons to communicate with one another; to access public safety, health, education, and assistance services; and to participate more fully in society.” The establishment of a SUSF, which provides for the maintenance of universal service and ensures that no customer loses access to basic telephone service, is a rational and ethical public policy.

...

The inability of small, rural telephone companies to rely upon a ...SUSF may lead to higher rates for basic service within the ILEC’s service territory. Higher rates would undermine the principles of

affordability and comparability of rates. Financial constraints would also jeopardize the ability of these carriers to continue to satisfy their carrier of last resort responsibilities. Lack of a fund could prevent the rural incumbent wire line carrier from competing on equal footing, as they are required to serve the entire service area while the newly certified cable and wireless service providers can chose to serve only the more lucrative portions of the service areas.¹

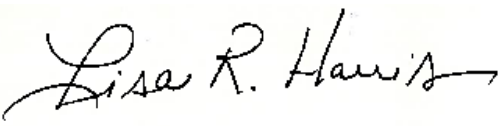
It is the UIU's position that the rural ILECs are the only service providers willing to serve all the customers in their service area. Under PSC jurisdiction, ILECs are the carrier of last resort. The competitive alternative service providers are not full substitutes since they do not have similar obligations.² If an ILEC were to be replaced or forced out of its service area by a competitor not subject to Commission jurisdiction, there would be no assurance that customers would have a safe and reliable network and, most importantly, continued access to public safety and emergency services. Moreover, even in service areas where both the ILEC and competition exist, the Commission has recognized that network reliability cannot be ensured.³

The JP resolves a major impediment to the establishment of an SUSF. Several large telecommunications companies and trade associations opposed this concept in litigation on jurisdictional and policy grounds. Such opposition had the potential to prevent establishment of the SUSF for quite some time. The JP removes that impediment by allowing for timely creation of the SUSF. Accordingly, the JP puts into practice the shared policy goal of the UIU and the PSC to ensure that all customers have access to affordable, reliable and high quality basic phone service.

For these reasons, the UIU urges approval of the JP.

Respectfully submitted,

Cesar Perales
Secretary of State

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C: Active Parties

¹ Exhibit 89, at pp. 7-8; 9-10

² *Id.* at 14.

³ *Id.* at 16.