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June 1, 2012

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

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

Dear Secretary Brillling:

Pursuant to the May 9, 2012 Notice Suspending Briefing Schedule and Establishing Scheduled for Statements in Support of or Opposition to Phase II Joint Proposal in the above-referenced proceeding, New York State Department of Public Service Staff (Staff) submits its reply statement.

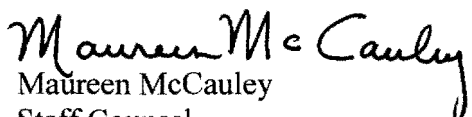
Although all of the parties submitting statements regarding the Joint Proposal and Settlement Agreement (Joint Proposal) supported establishing a state universal service fund (SUSF), some clarification is needed regarding several statements made in the Cable Telecommunications Association of New York, Inc.'s (CTANY) Statement of Support. The following statements are a more accurate reflection of Staffs' testimony:

**CTANY stated that “[s]ubstantial evidence indicated that only an extremely small number of New Yorkers do not have access to some form of competitive provider. Department of Public Service Staff’s (Staff) own report and Staff’s subsequent testimony in this phase indicate that not only is this number small, but has shrunk substantially during the tenure of this case.”**

- Staff testified that there were many areas in New York State in which cable service was not available, leaving customers with only a single telecommunications company to provide service.<sup>1</sup>
- Staff testified that there was no cable network infrastructure in over 90 New York State municipalities.<sup>2</sup>
- Staff testified that in addition to the 90 New York State municipalities without cable infrastructure, New York State residents in more than 24 municipalities lack access to cable modem or phone services despite partial deployment of cable network in those municipalities.<sup>3</sup>
- Staff testified that 80,000 households<sup>4</sup> comprise the New York State municipality groups lacking cable phone availability.<sup>5</sup>
- The Recommended Decision found “that platform alternatives to ILEC wireline service are unavailable for a significant number of residential locations within those service territories.”<sup>6</sup>
- Staff testified the aggregate number of municipalities without cable service has not shrunk substantially, rather the municipalities without cable networks in 2011 were the same municipalities that had been without cable service for decades.<sup>7</sup>

Staff appreciates the opportunity to clarify these points and continues to support Commission adoption of the JP.

Respectfully submitted,

  
 Maureen McCauley  
 Staff Counsel  
 NYS Department of Public Service

cc: Hon. Howard A. Jack  
 Hon. Eleanor Stein  
 Active Party List

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<sup>1</sup> TR. 456, 424.

<sup>2</sup> TR. 432.

<sup>3</sup> Ex. 53. TR. 432.

<sup>4</sup> An updated Verizon analysis of areas in New York State with access to only 1 phone service provider indicated that 60,000 households, approximately 1/3 of the total number of households in the small rural ILEC service areas, did not have cable modem available. Ex. 83.

<sup>5</sup> Ex. 53.

<sup>6</sup> RD at 36. Service territories comprised the smaller rural ILEC service areas, excluding Frontier and Windstream.

<sup>7</sup> A seeming decrease in the number of municipalities without cable franchises was the result of an administrative error that over-reported the number originally but was later corrected. Ex. 53