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January 23, 2012

E-FILED

Honorable Jaclyn A. Brillling
Secretary
New York Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

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

Dear Secretary Brillling:

On behalf of the NYSTA Smaller ILECs as noted in the attached, and pursuant to the to the January 4, 2012 "Notice Establishing 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 in the above-captioned proceeding, attached for filing is the "Comments of the NYSTA Smaller ILEC Members in Support of Extension of the Transition Fund."

Please direct any inquiries concerning this matter to the undersigned.

Sincerely,



Thomas J. Moorman
Counsel to
the NYSTA Smaller ILEC Members

cc: All parties of record (via email)

**BEFORE THE
STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

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

**COMMENTS OF THE NYSTA SMALLER ILEC MEMBERS IN SUPPORT OF THE
EXTENSION OF THE TRANSITION FUND**

Pursuant to the January 4, 2012 “Notice Establishing 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 by the New York Public Service Commission (“Commission”) (the “*Contribution Notice*”), the NYSTA Smaller ILEC Members¹ hereby provide these comments in support of the continuation of the Transition Fund (“TF”) as outlined in the *Contribution Notice*. For the reasons stated herein, the NYSTA Smaller ILEC Members respectfully request that the Commission direct the Targeted Accessibility Fund, Inc. (“TAF”) to collect the proposed \$350,000 of additional contributions for the funding of the TF,² and, consistent with the current Commission policies, direct TAF to make monthly disbursements to the three companies currently receiving Commission approved disbursements – Crown Point, Newport and Oneida County – since the Temporary Transition Fund Extension (“TTFE”) was

¹ The following companies make up the NYSTA Smaller ILECs group: Armstrong Telephone Company – NY, Berkshire Telephone Corporation, Cassadaga Telephone Corporation, Champlain Telephone Company, Chautauqua & Erie Telephone Company, Chazy & Westport Telephone Corporation, Citizens Telephone Company of Hammond, New York, Inc., Crown Point Telephone Corporation (“Crown Point”), Delhi Telephone Company, Deposit Telephone Company, Dunkirk & Fredonia Telephone Company, Edwards Telephone Company, Empire Telephone Corporation, Fishers Island Telephone Corporation, Germantown Telephone Company, Inc., Hancock Telephone Company, Margaretville Telephone Company, Middleburgh Telephone Company, Newport Telephone Company (“Newport”), Nicholville Telephone Company, Oneida County Rural Telephone Company, Ontario Telephone Company, Inc. (“Oneida County”), Oriskany Falls Telephone Company, Pattersonville Telephone Company, Port Byron Telephone Company, State Telephone Company, Taconic Telephone Corporation, Township Telephone Company, Trumansburg Telephone Company, Inc., Vernon Telephone Company, and Warwick Valley Telephone Company.

² See *Contribution Notice* at 4.

approved by the Commission on July 16, 2010.³ To ensure that the additional funding required for it to resolve Phase II is sufficient, the NYSTA Smaller ILECs also respectfully request that, in approving the collection and disbursement of these funds, the Commission make clear that it retains the right to direct the collection and disbursement of additional TF monies should circumstances warrant.

The proposed action outlined in the *Contribution Notice* is consistent with and advances the public interest. The Commission previously made clear that continued disbursement of TF funding is necessary and appropriate so that universal service is not undermined during the pendency of Phase II of this proceeding. The *July 16th TF Extension Order* articulated the public interest findings and conclusions as follows:

The proposed TTFE will preserve for an additional four months the *status quo* availability of financial support where needed for basic local residential telephone service, in rural areas that have limited alternatives to regulated service. It will thus help assure stable service and rates in those areas, while providing additional headroom to complete collaboration and, if necessary, litigation to resolve the need for, purpose of, and features of a possible long-term fund to support local residential service in high-cost areas of the State. Accordingly, we find that the proposed TTFE will promote the Commission's policy of striving to maintain safe and reliable telecommunications service at just and reasonable rates for all New Yorkers.

The proposed TTFE also reasonably balances the interests of customers of contributing and receiving companies. Customers of contributing telephone service providers would bear at most a very small overall cost over a short period, in return for greater certainty on an outside time by which there will be a determination on whether any further high-cost area support will be required. Customers of service providers receiving funding would be assured of continued rate support for an additional period over which that question and related issues can be resolved.

We also find the provisions for determining TTFE contributions in proportion to regulated intrastate revenues, for determining eligibility in accordance with existing Transition Fund procedures with enhanced notice, and for administration by the TAF administrator in conformance with existing procedures to afford a practical, reasonable

³ See Order Adopting Terms of Phase I Joint Proposal, Case 09-M-0527, released July 16, 2010 ("*July 16th TF Extension Order*"); see also Order Modifying Temporary Transition Fund Extension, Case 09-M-0527, issued and effective September 16, 2011 ("*September 16th TTFE Extension Order*").

interim approach. These provisions build on experience, provide certainty, and should serve to minimize costs of this interim support measure.⁴

These same overarching public policy findings and conclusions were effectively reiterated by the Commission when, in this proceeding, it extended the TTFE contribution and disbursement policies arising from the *July 16th TF Extension Order* in its action on September 16, 2011.⁵

Now that the Recommend Decision (“RD”) on Phase II issues has been released and procedures for the review of it have been established,⁶ the public policy determinations made in the *July 16th TF Extension Order* and the *September 16th TTFE Extension Order* amply support the additional funding of the TF and disbursements from it as outlined in the *Contribution Notice*. The conclusions reached in these decisions are, and always have remained, valid and proper, and now are equally applicable to the current status of this proceeding.

Unquestionably, the public interest associated with the extension of TF contributions and disbursement of them will protect universal service while also allowing the Commission to take a reasonable amount of additional time to appropriately consider and ultimately render a decision on the Phase II issues. Preserving the status quo associated with the extended TF funding will provide the Commission and all interested parties time to consider and address not only the RD but also the impact upon it of the recent intercarrier compensation order and related filings at the Federal Communications Commission. Consequently, the proposed additional TF contributions and disbursements should be adopted by the Commission.

For all of these reasons, therefore, the NYSTA Smaller ILECs fully support the Commission’s TF proposal and agree that the extension of the TF through the additional TF

⁴ *July 16th TF Extension Order* at 26-27 (emphasis in original).

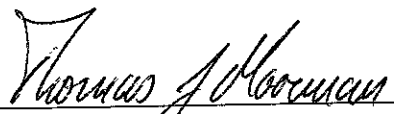
⁵ See *September 16th TTFE Extension Order* at 5-6.

⁶ See *Contribution Notice* at 1-3.

funding and disbursements while the RD is being considered by the Commission is proper. Further, allowing for additional contributions to the TF and disbursements from it in order to address the universal service cost recovery needs of the NYSTA Smaller ILECs is proper and in the public interest. Accordingly, consistent with the *Contribution Notice*, the NYSTA Smaller ILECs respectfully request that the Commission direct the TAF to collect and disburse, as necessary, the \$350,000 of additional funds during the pendency of the Commission's review of the RD and finalization of a decision in Phase II in this proceeding, and retain the right to direct the collection and disbursements of additional TF monies should the resolution of Phase II issues require additional time.

Respectfully submitted,

The NYSTA Smaller ILEC Members

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Date: January 23, 2012

Their Attorneys