

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

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In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
ETC Annual Reports and Certifications	)	WC Docket No. 14-58
	)	
Rural Broadband Experiments	)	WC Docket No. 14-259
_____	)	

**NEW YORK STATE  
PETITION FOR EXPEDITED WAIVER**

October 12, 2016

## TABLE OF CONTENTS

I.	NEW YORK BROADBAND PROGRAM .....	2
II.	OVERVIEW OF THE CAF COMPETITIVE BIDDING PROCESS RULES .....	3
III.	REQUEST FOR WAIVER.....	6
	A.    The CAF Competitive Bidding Process Rules Present Significant Challenges in New York .....	6
	B.    The Commission Must Waive the Competitive Bidding Process Rules in New York to Ensure the Deployment of Broadband Networks in Affected Communities.....	7
IV.	WAIVER GOOD CAUSE.....	9
	A.    A Waiver Would Facilitate Federal-State Broadband Coordination and Encourage Additional State Broadband Investment .....	10
	B.    A Waiver Would Account for the Unique Nature of the New York Broadband Program and Align Federal and State Broadband Funding .....	12
	C.    A Waiver Would Facilitate the Efficient Use of CAF Funding and Further the Goals of Section 254 .....	13
V.	CONCLUSION .....	15

## **EXECUTIVE SUMMARY**

New York State requests an expeditious waiver of the Commission's rules that require the award of Connect America Fund ("CAF") Phase II funding in New York through a competitive bidding process to align the distribution of CAF funding with the State's broadband program. As discussed herein, New York must soon auction the same territories that the CAF Phase II reverse auction will cover. Grant of the requested waiver would allow New York to coordinate allocation of the CAF funding with its own broadband auction, resulting in significant benefits to New York consumers. Importantly, New York's allocation of CAF funds would be undertaken in accordance with key Commission requirements and would not impose any additional financial burdens on the CAF.

As discussed herein, good cause exists for expeditious grant of the waiver due to the special circumstances arising from New York's ongoing broadband auction. Grant of the waiver request would promote the public interest by facilitating federal-state coordination on broadband issues and encouraging additional state broadband investment. It would provide significant cost efficiencies and financial synergies that are not available absent the waiver. Strict application of the competitive bidding process rules also could frustrate a variety of Commission CAF objectives by funding duplicative and costly broadband buildouts in the State. Finally, a waiver would be consistent with congressional intent regarding the universal service fund and the FCC's goals in designing the CAF to provide high-speed broadband to communities in need.

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**NEW YORK STATE**

**PETITION FOR EXPEDITED WAIVER**

New York State, through its chief economic development agency, Empire State Development (“ESD”), and pursuant to Sections 1.3 and 1.41 of the Commission’s rules, hereby respectfully requests an expedited waiver of the Commission’s rules that require the award of Connect America Fund (“CAF”) Phase II funding in New York through a competitive bidding process.<sup>1</sup> As discussed more fully below, special circumstances warrant grant of this expedited waiver request as it would allow designated carriers in New York to access CAF Phase II funding in coordination with the State’s existing broadband program. This is necessary to facilitate the deployment of broadband networks in New York not otherwise feasible absent the waiver. A waiver would also promote the public interest by ensuring the equitable and timely distribution of CAF funding, encouraging state funding of broadband services, and providing for

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<sup>1</sup> The specific rules subject to this expedited waiver request include various aspects of Section 54.312 *et seq.* of the Commission’s rules.

the efficient use of federal CAF resources. Finally, a waiver would further the FCC's goals in designing the CAF and congressional intent for the use of universal service funding.

## **I. NEW YORK BROADBAND PROGRAM**

In 2015, New York Governor Andrew Cuomo launched an unprecedented \$500 million program to help narrow the State's persistent digital divide, which had left approximately 2.5 million housing units with limited or no access to high-speed broadband services.<sup>2</sup> This program, the "New NY Broadband Program," is the boldest and most ambitious investment in broadband by any state and is helping to bring broadband to communities throughout New York. These include extremely rural and low-income areas wholly lacking access to broadband services.

ESD has implemented the broadband program through a reverse auction process that awards State funding to qualified winning bidders with proposals to deliver broadband service to areas of the State lacking high-speed access. The program relies on a public-private partnership model that requires broadband providers to contribute matching funds toward selected projects to better leverage State funding. To participate in the program, broadband providers must commit to provide download speeds of at least 100 Mbps in most areas, or 25 Mbps in very remote areas. Finally, the program includes an aggressive buildout schedule that requires funded networks to be completed by the end of 2018. This process ensures that providers quickly use State funding to deploy broadband facilities to communities most in need of them.

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<sup>2</sup> See New NY Broadband Grant Program Request for Proposal Guidelines at 3, available at <<http://nysbroadband.ny.gov/sites/default/files/documents/new-ny-broadband/New%20NY%20Broadband%20Program%20RFP%20Guidelines-%20FINAL.PDF>> (last visited October 5, 2016).

ESD recently concluded its Round I auction, which resulted in \$75.8 million of total investment for broadband projects. Of this amount, \$54.2 million was funded by the State and \$21.6 million by private investment. This investment will result in the deployment of 18,000 miles of broadband infrastructure in the State and the connection of nearly 34,000 homes to high-speed broadband for the first time.<sup>3</sup> The success of Round I demonstrates that New York’s broadband program is pioneering innovative solutions to fund broadband networks and meeting Governor Cuomo’s goals of ensuring that all New York communities can access broadband. ESD must soon auction the territories affected by Verizon’s 2015 decision to decline approximately \$170 million in Phase II CAF funding. The successful auction of these territories, and the ability of carriers to deploy broadband to these areas, heavily depends on Commission grant of the instant waiver request.

## **II. OVERVIEW OF THE CAF COMPETITIVE BIDDING PROCESS RULES**

The Commission comprehensively reformed and modernized the universal service and intercarrier compensation systems in 2011 to ensure that “robust, affordable voice and broadband service, both fixed and mobile, [would be] available to Americans throughout the nation.”<sup>4</sup> An essential aspect of this reform and modernization was the creation of the CAF, which the Commission established to “replace all existing high-cost support mechanisms.”<sup>5</sup> In the *USF/ICC Transformation Order*, the Commission committed up to \$1.8 billion annually for six

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<sup>3</sup> The Phase One Award Winners can be found at the following link: <http://nysbroadband.ny.gov/new-ny-broadband-program/phase-1-awards>.

<sup>4</sup> See *Connect America Fund et al.*, WC Docket Nos. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17667 (2011), aff’d sub nom., In re: FCC 11-161, 753 F.3d 1015 (10th Cir. 2014) (“*USF/ICC Transformation Order*”).

<sup>5</sup> *Id.* at 17673.

years to help fund the deployment of broadband infrastructure in price cap carrier territories. The Wireline Competition Bureau subsequently announced the specific amounts offered to price cap carriers in each state.<sup>6</sup> Ten carriers accepted over \$1.5 billion in annual support to provide broadband to nearly 7.3 million consumers in 45 states, but a number of carriers declined nearly \$175 million in annual support. This included \$28.4 million in annual funding declined by Verizon in New York.

The *USF/ICC Transformation Order* anticipated that some price cap carriers might not accept the initial broadband funding support offered through the CAF.<sup>7</sup> The Commission thus determined that funding declined by price cap carriers would be made available to other carriers to serve the declined territories through a competitive bidding process. The Commission noted that its objective in mandating a competitive bidding process was “to bring advanced services to as many consumers as possible in areas where there is no economic business case for the private sector to do so.”<sup>8</sup>

The Commission has structured the competitive bidding process as a nationwide reverse auction in which carriers will compete against one another across states for nearly \$2.1 billion in funding over ten years. The Commission has finalized rules related to the design and implementation of the reverse auction, including the census blocks eligible for auction, the reserve price for each census block, and the deployment milestones and service benchmarks applicable to winning bidders. The Commission has not yet established the timing of the

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<sup>6</sup> See *Wireline Competition Bureau Announces Connect America Phase II Support Amounts Offered to Price Cap Carriers to Expand Rural Broadband*, Public Notice, DA 15-509 (rel. April 29, 2015).

<sup>7</sup> See *USF/ICC Transformation Order* at 18154-58.

<sup>8</sup> *Id.* at 18085-86.

auction, though New York understands that it likely will occur after the State concludes its auction and distributes funding to winning bidders.

The auction design has raised concerns for New York and other states regarding their ability to secure appropriate and sufficient levels of CAF support in the upcoming competitive bidding process. These concerns stemmed from the fact that a national auction for declined CAF funds could result in the reallocation of original CAF funding among the states. This could mean that certain states receive none of the CAF support originally allocated to them absent additional protections established by the Commission. The extended timeframe for commencement of the CAF auction also raised particular concerns for New York given that its broadband program would fund broadband projects in the same New York territories before the CAF auction.

To address these concerns, the Commission recently issued the *CAF Further Notice* seeking comment on a number of measures it could implement to ensure that affected states retain appropriate levels of the CAF funding originally allocated to them.<sup>9</sup> In issuing the *CAF Further Notice*, the Commission reasoned that the rejection of CAF funds by certain carriers did not “diminish our universal service obligation to connect consumers in areas that would have been reached had the offer been accepted and to provide sufficient universal service funds to do so.”<sup>10</sup> Unfortunately, none of the Commission’s proposals fully addressed the affected states’ funding as each could allow the reallocation of funding to other states. The proposals also failed to resolve the timing challenges affecting New York’s broadband program or suggest a mechanism that would coordinate federal and state broadband funding programs.

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<sup>9</sup> See *In re: Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking, FCC 16-46 (rel. May 25, 2016) (“*CAF Further Notice*”).

<sup>10</sup> *Id.* at ¶ 217.

### III. REQUEST FOR WAIVER

#### A. The CAF Competitive Bidding Process Rules Present Significant Challenges in New York

ESD has conducted an extensive and granular review of the State's broadband needs in connection with its implementation of New York's broadband program. As part of this effort, ESD analyzed the broadband challenges facing each of the communities listed as eligible by the Commission for CAF funding.<sup>11</sup> ESD also worked with numerous carriers to understand how the availability of State funds can improve the commercial feasibility of broadband deployment in unserved New York locations. This review has provided ESD with a detailed understanding of how best to bring broadband services to eligible New York communities in an efficient and cost-effective manner.

Of particular importance, ESD's review confirmed that the FCC's competitive bidding process rules contain meaningful shortcomings relative to the deployment of broadband services in New York. First, the Commission's failure to allocate a certain amount of declined CAF funding to affected states could result in New York receiving very little, or conceptually even none, of the funding originally offered to Verizon in the State. Allocating CAF funding declined by Verizon is essential to New York's ability to effectively address the Verizon territories through its broadband program and ensure that the affected communities receive broadband services. Local providers have informed ESD that CAF funding would be a key component of any plans to offer high-speed broadband in the affected communities. The anticipated timing of

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<sup>11</sup> The list of eligible locations can be found at <[https://transition.fcc.gov/wcb/Prelim\\_Phase\\_II\\_Auction\\_Eligible\\_CBs\\_081016.zip](https://transition.fcc.gov/wcb/Prelim_Phase_II_Auction_Eligible_CBs_081016.zip)> (last visited October 4, 2016).

the CAF auction further complicates these funding challenges because New York must soon implement its auction of the affected territories to ensure that winning bidders can meet the State's established buildout deadlines. The inability to align the Phase II CAF funding with the award of New York's broadband program resources would result in the disparate federal and State funding of broadband in the affected communities. As discussed more fully below, this could lead to the buildout of duplicative broadband networks and the funding of unsustainable business models. It also would prevent the significant synergies available through the coordination of federal and State broadband funding. These synergies are necessary to ensure that carriers can deploy high-speed broadband to the affected communities.

B. The Commission Must Waive the Competitive Bidding Process Rules in New York to Ensure the Deployment of Broadband Networks in Affected Communities

To resolve the funding and timing challenges presented by the CAF competitive bidding process rules, New York requests that the Commission waive the rules and make the entire amount of CAF funding declined by Verizon (\$170.4 million) available to New York for allocation as part of its upcoming competitive reverse auction. Given the overlap between the CAF auction and the State's broadband program, a federal-state partnership would unquestionably be a more efficient means to distribute the declined CAF funding than for both the State and the FCC to conduct separate auctions. Importantly, New York State's distribution of CAF funding in connection with its upcoming award of State broadband funds would not sacrifice Commission speed and buildout goals; indeed they would be enhanced as the requirements of the New York broadband program are more rigorous than those applicable to the CAF. Such an arrangement would thus improve the effectiveness of the CAF funds by

leveraging ESD's substantial committed funding, existing auction procedures, and in-depth understanding of local broadband participants and market needs.

As a condition to the Commission's grant of the requested waiver, New York would ensure that the allocation of CAF funding in New York conforms to various Commission requirements. First, New York would allocate the CAF funding only in the census blocks the FCC determined to be eligible for the CAF auction (e.g., those that lack 10/1 Mbps broadband service, *inter alia*). This would ensure that CAF funds would only be used in areas specifically designated by the Commission as unserved by broadband. Second, ESD would not commit CAF funds to a specific buildout unless it also had committed New York broadband program funds to the same project. This would ensure alignment between both programs and attainment of the funding synergies necessary to deploy broadband in the affected communities.<sup>12</sup> Third, New York would not exceed the reserve price for an eligible census block in the period specified by the FCC. New York's commitment to FCC reserve prices would guarantee an optimal allocation of CAF funds so as to bring broadband to as many eligible locations as possible. Lastly, carriers receiving CAF funds would abide by various FCC regulations governing the use of the funds. These would include obtaining designation as an eligible telecommunications carrier ("ETC") prior to the receipt of CAF funds, meeting or exceeding CAF buildout requirements and service benchmarks, and complying with the Commission's reporting and various administrative requirements for receipt of CAF funding. As noted above, carriers receiving New York program funds already would need to comply with the State's more stringent benchmark and buildout requirements, making compliance with Commission regulations readily achievable.

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<sup>12</sup> ESD also would provide the Commission with any funding materials submitted to the State by broadband providers prior to the award of CAF funds.

#### IV. WAIVER GOOD CAUSE

Section 1.3 of the Commission's rules permits the Commission to waive a rule for "good cause shown."<sup>13</sup> The courts have found that a waiver excusing compliance with a Commission rule should be granted "where particular facts would make strict compliance inconsistent with the public interest."<sup>14</sup> The Commission may also grant a waiver when application of the rule would be contrary to the public interest and special circumstances warrant a deviation from the rule.<sup>15</sup> Finally, the Commission may "take into account considerations of hardship, equity, or more effective implementation of overall policy."<sup>16</sup>

As discussed more fully below, grant of the waiver request would promote the public interest by facilitating federal-state coordination on broadband issues and encouraging additional state broadband investment. The special circumstances arising from New York's broadband funding program, which will cover the same territories in advance of the Commission's CAF auction, also warrant grant of the waiver request. Strict application of the rule could frustrate a variety of Commission CAF objectives by funding duplicative and wasteful broadband buildouts in the State. For these and the other reasons that follow, there is good cause for the Commission to grant a waiver of the competitive bidding process rules in New York and, in so doing, to further the deployment of broadband services in the State consistent with the FCC's universal service obligations.

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<sup>13</sup> 47 C.F.R. § 1.3.

<sup>14</sup> *AT&T Corp. v. FCC*, 448 F.3d 426, 433 (D.C. Cir. 2006) (quoting *Ne. Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990)); see also *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969) ("[A] general rule, deemed valid because its overall objectives are in the public interest, may not be in the 'public interest' if extended to an applicant who proposes a new service that will not undermine the policy, served by the rule, that has been adjudged in the public interest.").

<sup>15</sup> *Ne. Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166.

<sup>16</sup> *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C.Cir. 1969).

A. A Waiver Would Facilitate Federal-State Broadband Coordination and Encourage Additional State Broadband Investment

Grant of a waiver would help to promote the public interest by facilitating the type of federal-state partnership that Congress, the courts, and the Commission have long recognized as vital to promoting and advancing universal service goals. Congress has acknowledged the important role that states have in developing and accomplishing key universal service objectives.<sup>17</sup> The Communications Act of 1934, as amended (“Communications Act”) affords states important roles in universal service fund implementation, including the designation of carriers as ETCs,<sup>18</sup> and permits them to create their own universal service funds.<sup>19</sup> The courts have recognized that the Communications Act “plainly contemplates a partnership between the federal and state governments to support universal service,”<sup>20</sup> and that “it is appropriate—even necessary—for the FCC to rely on state action.”<sup>21</sup> The Commission itself has acknowledged the important role that states must have in advancing universal service and has undertaken a variety of efforts to achieve such a partnership.<sup>22</sup>

Partnering with New York’s broadband program would promote the public interest by providing for the efficient use of both federal and State broadband funding. This partnership

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<sup>17</sup> See e.g., PUBLIC LAW 110–385, Section 1301(4). (“The Federal Government should also recognize and encourage complementary State efforts to improve the quality and usefulness of broadband data and should encourage and support the partnership of the public and private sectors in the continued growth of broadband services and information technology for the residents and businesses of the Nation.”).

<sup>18</sup> See 47 U.S.C. § 214(e).

<sup>19</sup> See 47 U.S.C. § 254(f).

<sup>20</sup> *Qwest Corp. v. FCC*, 258 F.3d 1191, 1200 (10<sup>th</sup> Cir. 2001)

<sup>21</sup> *Id.* at 1203.

<sup>22</sup> See e.g., *Federal-State Joint Board on Universal Service*, Order on Remand, Further Notice of Proposed Rulemaking, and Memorandum Opinion and Order, 18 FCC Rcd 22,559, 22,568 ¶ 17 (2003) (noting that “[t]he Act makes clear that preserving and advancing universal service is a shared federal and state responsibility.”).

would allow the Commission to leverage New York’s detailed understanding of the State’s broadband needs while achieving important Commission policies. The conditions discussed above would ensure that New York implements specific Commission requirements in distributing the CAF funding to carriers in the State. Such a partnership could also facilitate further coordination between the Commission and the states on the key broadband policy issues that are necessary to make broadband available throughout the country.<sup>23</sup>

Ensuring that CAF funding is awarded to states such as New York that are providing their own funds is consistent with the Commission’s long-standing goal of encouraging state funding of broadband development. On numerous occasions, the Commission has expressed its desire for more active state involvement in funding broadband deployment. In previous proceedings allocating universal service funding, the Commission has explicitly recognized “the role states can and do play in spurring broadband connectivity” by advancing additional funding to states with their own programs.”<sup>24</sup> Just recently, the Commission indicated that it was “particularly interested in proposals that would encourage [broadband] contributions from state

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<sup>23</sup> Grant of the instant waiver request would continue New York’s long history of partnering with the Commission on important public interest objectives. As the Commission is well aware, the State was the first to open its local telephone market to competition. This allowed the Commission to take the unprecedented step in 1999 of approving Bell Atlantic to offer interLATA long distance services pursuant to Section 271 of the Communications Act. *See Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act To Provide In-Region, InterLATA Service in the State of New York*, Memorandum Opinion and Order, 12 FCC Rcd 7564 (1999). The Commission coordinated extensively with the New York Public Service Commission (“PSC”) during this year-long proceeding, noting that the PSC’s “dedicated work and unfailing persistence” was key throughout the process. Just as it did during the Section 271 market-opening proceedings, New York could serve as a model for future coordination between the Commission and the states on broadband issues.

<sup>24</sup> *See In re: Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, *Connect America Fund*, WC Docket 10-90, Second Report and Order and Order on Reconsideration (Dec. 11, 2014), at ¶ 56 (“To encourage state participation, beginning in funding year 2016, we will increase an applicant’s discount rate for special construction charges up to an additional 10 percent in order to match state funding the applicant receives on a one-dollar-to-one-dollar basis.”).

and Tribal governments or entities.”<sup>25</sup> The Joint Board has also noted the important roles and responsibilities of states and recommended that the Commission adopt policies that “encourage states to provide matching funds” for a proposed Broadband Fund.<sup>26</sup>

Grant of a waiver would likely spur other states to develop and implement their own broadband programs or enjoy a similar partnership yielding a beneficial outcome for the citizens of their state through co-investment and coordination. These programs would leverage each state’s local knowledge of its own broadband needs while furthering important Commission policies of driving broadband investment across the country. Like in New York, these programs could help to develop innovative solutions to funding broadband deployment and tailored approaches to fostering broadband investment when traditional methods do not achieve optimal results. Importantly, these state-funded programs could help to reduce the burdens on the federal CAF while ensuring the continued deployment of broadband in many states.

B. A Waiver Would Account for the Unique Nature of the New York Broadband Program and Align Federal and State Broadband Funding

A number of special circumstances arising from New York’s broadband program justify grant of the waiver request. New York is uniquely affected by the competitive bidding process rules in that it has funded a one-time, large-scale funding program and is currently in the process of allocating significant capital expenditures related to deployment of broadband infrastructure in high-cost areas. New York’s broadband program is also operating on an extremely rapid deadline with auction winners required to complete their funded buildouts by the end of 2018.

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<sup>25</sup> *In re: Connect America Fund*, WC Docket No. 10-90, Report and Order, Declaratory Ruling, Order, Memorandum Opinion and Order, Seventh Order on Reconsideration, and Further Notice of Proposed Rulemaking, at ¶ 305 (rel. June 10, 2014) (discussing proposals for funding rate-of-return carriers).

<sup>26</sup> *See High- Cost Universal Service*, WC Docket No. 05-337, Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Recommended Decision, 22 FCC Rcd 20477, 20492 (2007).

ESD already has completed its Round I auction and has delayed auction of the affected territories because of the uncertainty surrounding the CAF funding. Any further delay in resolving these issues could jeopardize the ability of carriers to deploy services to the affected territories as carriers will not have the funding certainty necessary when the New York broadband auction commences.<sup>27</sup>

Grant of the instant waiver request would align federal and state broadband funding in New York. As noted above, this would facilitate the funding synergies necessary for the rapid deployment of ultra-fast broadband networks in the State. Of particular importance, these synergies can be achieved *at no additional cost to federal ratepayers*. These cost-free synergies would accrue to New York consumers through the rapid deployment of higher quality broadband services. Grant of the waiver would thus result in significant benefits for the affected local communities while not burdening federal ratepayers with additional universal service fund obligations.

C. A Waiver Would Facilitate the Efficient Use of CAF Funding and Further the Goals of Section 254

Strict application of the competitive bidding process rules in New York would frustrate important Commission objectives. The Commission has articulated a strong preference against funding duplicative buildouts.<sup>28</sup> Inasmuch as the upcoming CAF Phase II reverse auction will include those census blocks lacking 10/1 Mbps broadband service, there will be inherent overlap with New York's auction process that covers many of the same territories. There is no certainty that the broadband providers funded through the New York program would be the same

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<sup>27</sup> Several broadband providers have informed ESD that they may not participate in the auction without a better understanding of CAF funding commitments.

<sup>28</sup> See *USF/ICC Transformation Order* at 17669.

providers funded through the CAF auction. Absent a waiver, there is thus the potential for the Commission and the State to fund different providers to deploy broadband in the same territories. This would result in the duplicative buildout of broadband facilities, which would be a careless and wasteful use of precious CAF resources. Of particular importance, these buildouts would occur in territories already served by Verizon. This could potentially result in three different providers deploying broadband networks in the affected communities, which would result in unsustainable business models for the recipients of the federal and State funds.

Finally, waiver of the competitive bidding process rules in New York would further congressional intent and the express terms of Section 254 of the Communications Act. Both the Commission and the courts have agreed that the extensive grant of authority provided to the FCC by Congress under Section 254 provides it with significant leeway to effect the broader purposes of the universal service fund.<sup>29</sup> This includes waiving the competitive bidding process rules to allow New York to leverage CAF funds to advance the deployment of broadband services in partnership with the State, which is effectively utilizing its own competitive auction procedures to drive broadband investment. Providing CAF funds in partnership with New York would also align with the goals of the Commission's *2011 USF Transformation Order*, in which it determined that "nothing in Section 254 ... requires us simply to provide federal funds to carriers and hope that they will use such support to deploy broadband facilities."<sup>30</sup>

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<sup>29</sup> See e.g., *Federal State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, 8901 (1997) ("The language of section 254(h)(2) grants the Commission broad authority to enhance access to advanced telecommunications and information services, constrained only by the concepts of competitive neutrality, technical feasibility, and economical reasonableness."); see also *Texas Office of Public Utility Counsel, et. al. v. F.C.C.*, 183 F.3d 393 (5<sup>th</sup> Cir. 1999) ("[W]e are convinced that Congress intended to allow the FCC broad authority to implement this section of the Act."); *Clark-Cowlitz Joint Operating Agency v. F.E.R.C.*, 826 F.2d 1074, 1080 (D.C. Cir. 1987) (citations omitted) (noting that a broadly worded statute provides an agency with "flexibility in carrying out its duties....").

<sup>30</sup> See *ICC/USF Transformation Order at 17701*.

**V. CONCLUSION**

New York State respectfully requests that the Commission waive the competitive bidding process rules in New York to allow carriers in the State to access the CAF funding in partnership with the State's broadband program. As discussed herein, good cause exists for grant of the waiver, which would be in the public interest as it would resolve a number of funding and timing challenges and ensure the most cost effective and efficient use of CAF funding.

Respectfully submitted,

By:

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