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Secretary

June 15, 2007

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW, Suite TW-A325
Washington, DC 20554

Re: Comments of the New York State Department of Public Service in WC Docket 07-38; Notice of Proposed Rule Making on the Development of Nationwide Broadband Data, et al.

Dear Secretary Dortch:

The New York State Department of Public Service (Department or NYDPS) respectfully submits these comments to the Federal Communications Commission (FCC) on its Notice of Proposed Rule Making (NPRM) in WC Docket No. 07-38; Further Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Broadband Services to all Americans, Improvement of Wireless Broadband Subscription Data, and Development of Data on Interconnected Voice over Internet Protocol (VoIP) Subscribership. Specifically, the NYDPS supports modifying FCC Form 477 by broadening its scope and including wireless and VoIP data collection and exploring additional mechanisms, beyond 5-digit zip codes, in analyzing broadband deployment and availability nationwide.

In the past, the Department has relied heavily on FCC Form 477 in its efforts to evaluate mass market competition, and the effects of certain mergers on enterprise and mass markets. We found it very efficient for the FCC to be the primary collector and repository of this type of zip code level data. However, to address certain concerns raised by some parties in our New York proceedings, we encourage the FCC to consider a more nuanced approach in amassing such information to include how many customers are served in each zip code. Further, we support the inclusion of collecting information beyond platform providers (land line and cable) to include voice equivalent providers (wireless and VoIP). Having the FCC collect this information in a consistent format for all such providers would assist the Department in continuing to assess the level of competition in New York markets.

For example, the Department recently undertook a comprehensive review of competition. In a September 21, 2005 Staff White Paper, Staff relied heavily on confidential December 2004 FCC Form 477 data to ascertain if customers in a particular wire center serving area had cable or Digital Subscriber Line (DSL) service alternatives. Using information on the residential population of each zip code within each wire center, Staff attempted to identify the proportion of population in each wire center that had either cable or DSL alternatives. However, Staff's method was constrained by the mis-matching of zip code and wire center boundaries. Obviously, the more robust the data collection in FCC Form 477 9 (i.e., competitive customer counts and zip code plus 4 instead of zip code level data); the easier it would be to ascertain competitive alternatives in New York and elsewhere.

The issue of broadband availability is one of critical importance. New York is currently considering ways to ensure ubiquitous access to affordable high speed broadband service in the state. Therefore, efforts by the FCC to refine its data collection effort on a more granular basis are welcome. Currently, the FCC collects data on a 5-digit zip code basis. In New York, that does not go far enough. New York is an extraordinarily diverse state ranging from dense urban communities to rural agricultural districts to remote wilderness areas. Unfortunately, many New York zip codes cover wide areas and only knowing that a broadband provider serves a particular zip code is simply insufficient to determine whether all the people in that zip code have access to broadband. Moreover, there are topography concerns that create impediments to broadband deployment and availability within a given zip code. Accordingly, the NYDPS supports a more granular approach, similar to the Kentucky initiative discussed in the NPRM at pages 17-18, for collecting broadband information. Kentucky's mapping initiative yields street-by-street and in some cases block-by-block broadband availability. This type of granularity would be extremely beneficial.

For our part, New York has begun efforts to more accurately assess the geographic availability of broadband. This spring we conducted a statewide telecommunications survey to evaluate consumers' perceptions with regard to availability of broadband and other telecommunication services (however, this gave a very broad upstate/downstate view and was not as useful as Form 477 data for purposes of identifying underserved "pocket"). In addition, we have begun updating a 2003 study that evaluated what broadband services were available to rural portions of the state. This revised broadband service mapping will help provide preliminary guidance in general areas of the state most likely to be underserved or un-served. As Governor Spitzer has identified universal broadband deployment as a priority, we will be coordinating our research/mapping initiatives with other involved state agencies and will support joint federal/state efforts to more accurately identify broadband availability.

NYDPS Comments
Docket No.07-38
June 15, 2007

In sum, the NYDPS supports broadening FCC Form 477 and utilizing a more granular approach to identifying broadband availability.

Respectfully submitted,

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