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**PUBLIC STATEMENT OF
ROBERT R. PUCKETT, PRESIDENT
OF
THE NEW YORK STATE TELECOMMUNICATIONS ASSOCIATION, INC.
BEFORE THE
SENATE SELECT COMMITTEE ON BUDGET AND TAX REFORM COMMITTEES**

AUGUST 12, 2009

THANK YOU CHAIRMAN KRUGER AND MEMBERS OF THE COMMITTEE FOR GRANTING ME THE OPPORTUNITY TO PRESENT THESE COMMENTS TODAY REGARDING MODERENIZING NEW YORK STATE'S TELECOMMUNICATIONS TAX SYSTEM.

MY NAME IS ROBERT PUCKETT. I CURRENTLY SERVE AS PRESIDENT OF THE NEW YORK STATE TELECOMMUNICATIONS ASSOCIATION (NYSTA). MY 35 PLUS MEMBERS INCLUDE LARGE CARRIERS SUCH AS AT&T AND SPRINT AND SMALLER CARRIERS OPERATING THROUGHOUT THE STATE FROM FISHERS ISLAND IN THE EASTERN MOST PART OF THE STATE TO FREDONIA IN THE FAR WESTERN PART OF THE STATE. MY MEMBERS' NETWORKS REPRESENT THE "CENTRAL NERVOUS SYSTEM" OF THIS STATE'S TELECOMMUNICATIONS NEEDS AND OF TODAY'S INFORMATION BASED ECONOMY. THEY PROVIDE EVERYTHING FROM PLAIN OLD TELEPHONE SERVICE TO NETWORKS CAPABLE OF PROVIDING

HIGH SPEED INTERNET SERVICES AND HAVE RECENTLY BEGUN ROLLING OUT VIDEO SERVICES IN MANY MARKETS.

I WOULD LIKE TO APPLAUD THIS COMMITTEE, AND ALL THE MEMBERS OF THE LEGISLATURE, FOR RECOGNIZING THE VASTLY CHANGED TELECOMMUNICATIONS MARKETPLACE. MY MEMBERS NOW COMPETE WITH VARIOUS OTHER PROVIDERS AND THERE IS A NEED TO ADDRESS THE VARIOUS TAX TREATMENTS EACH OF THE MARKETPLACE PARTICIPANTS OPERATE UNDER.

I AM HERE TO URGE YOU TO CONTINUE TO UNDERSTAND THE DIFFERENCES THAT EACH MARKET PARTICIPANT OPERATES UNDER AND URGE YOU TO BRING PARITY TO THE MARKETPLACE THROUGH REVISIONS TO THE STATE'S TAX POLICIES.

BEFORE ADDRESSING THE ISSUE OF TAXATION BETWEEN COMPETING INDUSTRIES, I WOULD LIKE TO ADDRESS THE OVERALL TAX IMPACT ON TELECOMMUNICATIONS PROVIDERS AND THE NEED TO LOWER THE TAX IMPACTS ON TELEPHONE CORPORATIONS IN GENERAL. A 2004 STUDY CONDUCTED BY THE COUNCIL ON STATE TAXATION SHOWS THAT IN NEW YORK, OVERALL TELEPHONE COMPANY TAXES AMOUNT TO 17.29 % COMPARED TO AN OVERALL RATE OF TAXATION FOR GENERAL BUSINESS OF 8.44%. JUST AS HIGH ENERGY PRICES DETERRED ECONOMIC DEVELOPMENT IN THE MANUFACTURING BASED ECONOMY OF THE 20TH CENTURY, HIGH TELECOMMUNICATIONS TAXES

DETER ECONOMIC DEVELOPMENT IN TODAY'S 21ST CENTURY INFORMATION BASED ECONOMY.

POLICY MAKERS FROM ALL LEVELS OF GOVERNMENT RECOGNIZE THE IMPORTANCE OF BRINGING BROADBAND SERVICES TO EVERYONE AND BUILDING AND MAINTAINING HIGH SPEED NETWORKS IN TODAY'S INFORMATION BASED ECONOMY. EFFORTS ARE UNDERWAY BOTH AT THE FEDERAL AND STATE LEVELS TO ENSURE WE MEET THE BROADBAND NEEDS OF BOTH THE UNSERVED AND UNDERSERVED BUSINESSES AND RESIDENCES OF NEW YORK. MEETING THESE NEEDS WILL HELP BUILD OUR ECONOMY AND ENSURE NEW YORK'S ECONOMIC POSITION IN THE WORLD.

HOWEVER, DEPLOYMENT OF BROADBAND SERVICES AND OTHER EMERGING TECHNOLOGIES IS HINDERED BY THE EXORBITANT TAX RATE ON TELECOMMUNICATIONS. THE HIGH TAX RATE REPRESENTS A SIGNIFICANT DETERRENT TO THOSE BUSINESSES LOOKING TO EXPAND IN THESE AREAS.

THE DISPARATE LEVEL OF TAXATION OF THE TELECOMMUNICATIONS INDUSTRY AS COMPARED TO OTHER BUSINESSES IN THIS STATE MAKES OUR STATE LESS COMPETITIVE IN ATTRACTING THE CAPITAL DOLLARS NEEDED TO BUILD AND MAINTAIN STATE OF THE ART NETWORKS AND ALSO DIRECTLY IMPACTS CONSUMERS ABILITIES TO PURCHASE BROADBAND SERVICES.

INTERESTINGLY, THERE ARE ONLY TWO INDUSTRIES TAXED HIGHER THAN TELECOMMUNICATIONS - ALCOHOL AND TOBACCO. TAXES ON THESE PRODUCTS ARE INTENTIONALLY HIGH BECAUSE THERE IS AN ATTEMPT TO DETER CONSUMPTION OF THESE PRODUCTS. CERTAINLY IT IS NOT THE INTENT OF ANYONE IN THIS STATE TO DETER THE USE OF BROADBAND AND OTHER TECHNOLOGIES. HOWEVER, THE ULTIMATE EFFECT OF THE HIGH TAX RATE IS TO DETER INVESTMENT IN BROADBAND, INFRASTRUCTURE AND OTHER NEW TECHNOLOGIES.

AS I HAVE OUTLINED, THERE IS AN OVERALL TAXATION ISSUE WITH REGARDS TO THE TELECOMMUNICATIONS INDUSTRY AS A WHOLE. HOWEVER, THE TAXATION ISSUE DOES NOT STOP THERE BECAUSE OF THE DIFFERING TAXATION TREATMENT BETWEEN THE VARIOUS PROVIDERS IN THE INDUSTRY.

AS YOU LOOK MORE CLOSELY AT THE “NEW” TELECOMMUNICATIONS INDUSTRY, YOU WILL SEE THAT THERE ARE VARIATIONS IN TAX TREATMENT AMONG THE VARIOUS PROVIDERS. IT IS BECAUSE OF THESE DIFFERENCES THAT NYSTA STRONGLY SUPPORTS THE EFFORTS OF THIS BODY TO BEGIN TO ADDRESS THE DIFFERENCES THAT EXIST BETWEEN THE VARIOUS PROVIDERS OF TELECOMMUNICATIONS SERVICES AND TO MOVE TOWARD BRINGING SOME MEASURE OF PARITY TO THE TAX (AND SURCHARGE) TREATMENT OF TELECOMMUNICATIONS SERVICES.

AT ONE POINT, MANY YEARS AGO, THE INCUMBENT TELEPHONE COMPANIES HAD A MONOPOLY ON TELEPHONE SERVICE. IT IS UNIVERSALLY RECOGNIZED THAT THOSE DAYS ARE LONG IN THE PAST AND REGULATED INCUMBENT TELEPHONE COMPANIES NOW FACE FIERCE COMPETITION FROM CABLE TV AND OTHER PROVIDERS SUCH AS VONAGE. IN TODAY'S MARKETPLACE, THERE IS INTENSE COMPETITION WITH CABLE TV PROVIDERS NOW OFFERING VOICE SERVICES THROUGHOUT NEW YORK. SIMILARLY, TELEPHONE COMPANIES ARE NOW ENTERING THE VIDEO MARKETPLACE. THE INCUMBENT TELEPHONE COMPANIES AND THE CABLE COMPANIES ALSO EACH COMPETE HEAVILY FOR HIGH SPEED BROADBAND SERVICES.

THE COMPETITION FROM OTHER PROVIDERS HAS BECOME INTENSE. ON LONG ISLAND, CABLEVISION SYSTEMS, A CABLE TV PROVIDER THAT MARKETS VIDEO, VOICE AND HIGH SPEED INTERNET ACCESS, NOW ADVERTISES THAT IT IS THE LARGEST TELEPHONE PROVIDER ON LONG ISLAND.

THE INCUMBENT PROVIDERS HAVE LOST, AND CONTINUE TO LOSE, LARGE MARKET SHARE TO THESE NEW COMPETITORS. AS JUST ONE EXAMPLE, VERIZON LOST CLOSE TO \$1 BILLION DOLLARS IN NEW YORK IN 2007 ACCORDING TO DATA PUBLISHED BY THE NEW YORK STATE PUBLIC SERVICE COMMISSION. SINCE 2000, VERIZON HAS LOST 43% OF MARKET SHARE AS MEASURED BY ACCESS LINES.

DESPITE THE OVERWHELMING EVIDENCE THAT EXISTS TO SHOW THAT THERE IS COMPETITION IN THE MARKETPLACE, THERE ARE DIFFERENCES IN THE TAX TREATMENT OF THE TRADITIONAL LANDLINE TELEPHONE CORPORATIONS AND CABLE TV PROVIDERS WHO COMPETE FOR THE SAME CUSTOMERS TO OFFER THE SAME SERVICES. WHILE TELEPHONE PROVIDERS AND CABLE PROVIDERS USED TO REPRESENT TWO SEPARATE AND DISTINCT INDUSTRIES, TODAY THEY ARE MERELY DIFFERENT PROVIDERS IN THE SAME INDUSTRY WHO PROVIDE VARYING SERVICE PACKAGES.

AS ONE EXAMPLE, TELEPHONE COMPANIES MUST PAY PROPERTY TAXES FOR THEIR EQUIPMENT SUCH AS TELEPHONE POLES AND WIRES LOCATED IN PRIVATE RIGHTS OF WAY. CABLE TV COMPANIES PROVIDING TELEPHONE SERVICE DO NOT. HOWEVER, THE CABLE TV INDUSTRY PAYS FRANCHISE FEES TO LOCAL MUNICIPALITIES IN LIEU OF SUCH PROPERTY TAXES, FRANCHISE FEES THAT TELEPHONE SERVICE PROVIDERS SELLING ONLY PHONE SERVICE DO NOT PAY. YET, IF A PHONE COMPANY BEGINS TO PROVIDE VIDEO SERVICES IN A MUNICIPALITY THEY MUST ALSO BEGIN PAYING FRANCHISE FEES IN ADDITION TO THE PROPERTY TAXES. THIS REPRESENTS AN EXAMPLE OF HOW DIFFERING TAX TREATMENTS ARE APPLIED TO THE TWO INDUSTRY PARTICIPANTS AND ULTIMATELY IMPACT THE ULTIMATE COST OF SERVICES OFFERED BY EACH.

THE ISSUE OF TAXES AND SURCHARGES IS COMPLEX. YET, THE CABLE TV INDUSTRY HAS USED THESE DIFFERENCES IN VARIOUS MARKETING CAMPAIGNS TO CUSTOMERS. SEVERAL TELEVISION AND RADIO AD'S TOUTING THESE

DIFFERENCES HAVE APPEARED THROUGHOUT THE STATE HIGHLIGHTING ALL THE TAXES AND SURCHARGES ON TELEPHONE COMPANY CUSTOMERS BILLS. ONE CABLE TV AD I HAVE SEEN REGARDING THE TOPIC SHOWS AN INDIVIDUAL WITH A DISTINCT BRITISH ACCENT ESPOUSING THE FACT THAT IF YOU PURCHASE YOUR TELEPHONE SERVICES THROUGH A CABLE PROVIDER, YOU WON'T HAVE TO PAY ALL THOSE TAXES AND SURCHARGES. THE CHARACTER'S NAME IN THE COMMERCIAL IS SIR CHARGE.

IN CLOSING, I URGE THIS COMMITTEE TO MOVE FORWARD WITH ITS EFFORTS TO STUDY BOTH THE OVERALL TAX AND SURCHARGE "COST" OF TELECOMMUNICATIONS SERVICES AND THE DIFFERING TAX TREATMENT OF THE VARIOUS TELECOMMUNICATIONS INDUSTRY SEGMENTS. THE ANSWERS ARE NOT GOING TO BE EASY OR SIMPLE BUT NYSTA AND ITS MEMBERS ARE PREPARED TO ASSIST YOU IN ANY WAY WE CAN. UNTIL THE TAX FIELD IS LEVELED, BOTH IN OVERALL TERMS AND WITHIN THE MARKETPLACE, THE TRADITIONAL TELECOMMUNICATIONS PROVIDERS CANNOT COMPETE ON A LEVEL PLAYING FIELD. WITHOUT A LEVEL PLAYING FIELD, WE WILL NOT BE ABLE TO BRING NEW YORK TO THE FOREFRONT OF THE BROADBAND REVOLUTION AND MAKE OUR STATE MORE COMPETITIVE IN THE ECONOMIC WORLD THAT NOW DEMANDS IT. FAILURE TO DO SO MAY HAVE THE UNINTENDED CONSEQUENCE OF CREATING A NEW MONOPOLY TELECOMMUNICATIONS MARKETPLACE BECAUSE ONE INDUSTRY SEGMENT, UNABLE TO COMPETE DUE TO A DIFFERENT TAX AND SURCHARGE STRUCTURE, NO LONGER REMAINS VIABLE.

THANK YOU FOR THE OPPORTUNITY YOU HAVE GIVEN ME TODAY TO SPEAK TO
YOU ABOUT THIS IMPORTANT TOPIC.