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**Congress of the United States**  
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COMMITTEE ON AGRICULTURE  
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ENVIRONMENT

January 28, 2020

The Honorable Ajit Pai  
Chairman  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

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Dear Chairman Pai,

Thank you for taking my call on Friday, January 24<sup>th</sup>, to discuss the Federal Communication Commission's (FCC) draft proposal for the Rural Digital Opportunity Fund (RDOF), which as currently written, excludes all New York State broadband providers from participating in Phase I of the program. As I expressed on the phone, I am deeply disappointed by the inclusion of Footnote 27 in the FCC's draft order, as the exclusion of New York will undoubtedly increase the digital divide and unfairly punish communities that meet RDOF's minimum eligibility standards.

On our call, you offered two justifications for this decision. First, you stated concerns with doubling up on federal broadband investments in regions that previously received funding through Phase II of the FCC's Connect America Fund (CAF) auction. Second, you stated that New York has failed to demonstrate that it has any unserved communities that would qualify for RDOF Phase I funding. Below are responses to both of your stated concerns.

As you know, CAF II funding was awarded to 103 bidders in 45 different states. As part of that process, New York was permitted to deploy \$170 million in CAF II funds as part of its own state-run broadband initiative. To avoid doubling up on federal investment in regions that previously received CAF II support, the FCC is making those regions ineligible for RDOF's Phase I funding. Rather than applying this same standard to New York, the FCC has decided to make the entire state ineligible to even apply for RDOF Phase I funds. There are areas of New York that did not receive federal support through CAF II and that meet the eligibility standards for RDOF. Furthermore, there are service providers in New York that, with RDOF support, could address these areas which currently lack qualifying service.

Regarding your second point, it is my understanding that New York State has been in frequent contact with your office regarding this decision by the FCC. The State adamantly contends that the FCC never conditioned its partnership with New York for re-allocation of the declined Verizon CAF II funds on the state's abdication of future federal funding opportunities. Furthermore, it is my understanding that the State has already identified – and provided the FCC with data for – more than 56,000 New York households that meet RDOF's eligibility standards

and have not previously received any federal support through CAF II. There is no reason these communities and any others that may meet the FCC's stated eligibility criteria should be blocked from Phase I of RDOF, which constitutes \$16 billion of the program's \$20.4 billion in funding.

I cannot overstate the impact this decision would have on our state – I constantly hear from small businesses, family farmers, healthcare providers, schools, and countless others in my district about the urgent need for broadband service upstate. Thank you for your attention to this matter and I ask that you reply before the Commission proceeds with a vote on the RDOF rollout on January 30, 2020. I look forward to your prompt and detailed response.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Antonio Delgado', is written over the printed name. The signature is stylized with large loops and a long horizontal stroke extending to the right.

Antonio Delgado  
Member of Congress