

**STATEMENT OF COMMISSIONER MICHAEL O'RIELLY
APPROVING IN PART AND DISSENTING IN PART**

Re: Connect America Fund, WC Docket No. 10-90; ETC Annual Reports and Certifications, WC Docket No. 14-58

Over the past several years, the Commission has worked hard to reform the federal universal service high-cost program to ensure that funding for broadband deployment is spent as efficiently as possible and is targeted to unserved areas that are most in need of support. I have certainly dedicated a significant portion of my time to the subject and we still have much work to finish, including the Connect America Fund (CAF) Phase II, Mobility Fund Phase II, and the Remote Areas Fund. This must be done expeditiously, meaning substantial progress must be made this year. Thankfully, our orders during my time here have laid a solid foundation for completing these programs in a manner that maximizes broadband coverage across the Nation within our budget.

I commend New York and any other state willing to initiate its own program to spur broadband deployment in its jurisdiction. Yet, I am disappointed that the price of working with the state on this waiver request was to compromise on some of the sound policy decisions the FCC has achieved to date. While some see this as a block grant-like proposal, which I generally support in many contexts, this waiver request shouldn't be interpreted as such. These are federal USF dollars taken from ratepayers nationwide. They are not New York State funds, and we have the burden of deciding how best to allocate these scarce dollars, as well as the right to demand that they be spent wisely. We also shouldn't have been held captive by artificial deadlines that had a negative impact on the overall discussions.

The Commission expects that granting this petition will bring broadband to consumers sooner than the timetable for CAF Phase II. If achieved, that is a benefit, to be sure. In addition, I am pleased that New York will now adjust its program to ensure that all companies can compete for funding at the same time and in a technology-neutral manner, although I still have worries that the preferences will unfairly tilt against non-fiber providers. To be clear, I will carefully examine it to ensure that there are no restrictions or preferences that would unreasonably favor or disfavor any particular technology. I also take seriously the idea that the Commission reserves the right to review New York's filing, and I commend Chairman Pai for his willingness to commit to pull the plug on this whole effort if it is not consistent with our universal service objectives. For these reasons, I am able to approve in part.

At the same time, I am concerned that the funding will not be used as efficiently as possible. It should not be lost on everyone that New York is one of the states that diverts 9-1-1 fees collected to other non-related purposes, as is noted in the Commission's recent report on the subject.¹ We should have received assurances that New York would cease this disgraceful practice. It certainly is one of the reasons that I have reservations about the representations made by the State.

Substantively, without the assurances of a multi-round reverse auction or scarcity to drive down bids, our funding could be used in combination with New York's funding to overpay for deployment in some areas, perhaps well over our reserve price, leaving other areas without service. That means the Commission could be left with more areas that we need to include in our Remote Areas Fund. Moreover, it is highly likely that carving New York out of the CAF II reverse auction means that some funding that might otherwise have flowed to high-cost portions of other states will be used for less efficient purposes

¹ Eighth Annual Report to Congress on State Collection and Distribution of 911 and Enhanced 911 Fees and Charges for the Period January 1, 2015 To December 31, 2015, DA-17-61 (rel. Dec. 30, 2016), http://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db0113/DA-17-61A2.pdf.

in New York. It also undermines some of the competitive pressure we expected to achieve by conducting a nationwide reverse auction. Therefore, I must dissent in part.

I hope to be proven wrong about my concerns on this item, but only time will tell.