

December 22, 2022

The Honorable Thomas P. DiNapoli  
Office of the New York State Comptroller  
110 State Street  
Albany, New York 12236

RE: 180-Day Response to the New York State Office of Comptroller Audit Report 2020-S-19: New NY  
Broadband Program

Dear Comptroller DiNapoli:

In accordance with Section 170 of the Executive Law, this letter shall serve as Empire State Development's ("ESD") 180-day update of its compliance with the findings and recommendations identified in the Office of the State Comptroller ("OSC") final audit report 2020-S-19 – New NY Broadband Program dated July 1, 2022. The stated purpose of the audit was to determine whether ESD has effectively monitored and managed the New NY Broadband Program and whether the Program has achieved its overall goals. The audit covered the period from January 2016 through November 2021.

#### **I. ESD's Response to OSC's Recommendations**

##### **Recommendation #1: *Work with ISPs to complete outstanding projects as soon as possible.***

**Response:** As noted in ESD's previous response, ESD agrees with this recommendation, which was already occurring prior to the audit. ESD continues to work with the ISPs to complete the projects that have not completed construction. Each of the projects has made significant progress in the past three months and we anticipate most or all completing construction before the end of December, assuming the weather holds. One project has two locations remaining to connect and another has approximately 50 locations left. Three projects each have fewer than five miles of fiber construction remaining, and one project has approximately 60 miles left to construct. One project is testing the new network in anticipation of service delivery.

##### **Recommendation #2: *Include a disclaimer when reporting the percentage of broadband availability in the State that is based on FCC data that has known limitations.***

**Response:** As noted in ESD's previous response, to address concerns with the FCC 477 data and ensure effective broadband deployment in the future, in 2021, Governor Kathy Hochul announced the launch of a Broadband Mapping Consumer Survey to identify the availability, reliability and cost of high-speed broadband services across the state. In June 2022, the Department of Public Service (DPS) published New York's first interactive, address-level broadband map. Furthermore, the Comprehensive Broadband Connectivity Act of 2021 directs the Public Service Commission to study, on an annual basis, the availability, reliability, and cost of high-speed broadband service in the State. The Broadband Assessment Program, administered by DPS, updates this data annually to assist the public and private sectors in addressing broadband policy and planning efforts, and to better inform all New Yorkers regarding the availability of high-speed broadband services. In fact, the FCC no longer uses 477 data and has also implemented address-level data to identify the availability of high-speed broadband services. Therefore, the ConnectALL program is not relying on 477 data.

**Recommendation #3: Ensure that future State-funded projects are based on accurate broadband availability data and utilize technologies that provide high-speed and reliable internet that meets users' needs.**

**Response:** As noted in ESD's previous response, in 2022, Governor Hochul established the pioneering ConnectALL initiative, the largest-ever investment in New York's digital infrastructure, extending the promise of affordable, reliable broadband statewide. Catalyzing over \$1 billion in new public investments, ConnectALL will transform and expand New York's digital infrastructure in rural and urban areas and continue the State's leadership in the 21st-century connected economy.

In addition to establishing a new broadband mapping and data collection program, ConnectALL will improve service and affordability by increasing competition and consumer choice; invest significant new resources in rural broadband deployment, support digital equity and inclusion initiatives; and build accessible public broadband infrastructure to drive innovation and economic growth. Not only is ConnectALL the largest ever investment in New York's digital infrastructure, it is a comprehensive solution that tackles the full range of connectivity and broadband challenges faced by our diverse state.

If you have any questions with respect to this response, please don't hesitate to contact me.

Yours truly,

*Felisa R. Hochheiser*

Felisa R. Hochheiser  
Director of Compliance

cc:

Governor Kathy Hochul  
Senator Andrea Stewart-Cousins  
Senator Robert G. Ort  
Senator Liz Krueger  
Senator Thomas O'Mara  
Speaker Carl E. Heastie  
Assemblymember Crystal B. Peoples-Stokes  
Assemblymember William A. Barclay  
Assemblymember Helene E. Weinstein  
Assemblymember Edward P. Ra