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April 16, 2010

BY HAND DELIVERY

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Filing Room - Second Floor
Commonwealth Keystone Building
PO Box 3265
Harrisburg, PA 17105-3265

In re: Marcellus Shale En Banc Hearing on PUC Jurisdictional Issues; Docket No. I-2010-2163461; **COMMENTS OF ETC NORTHEAST PIPELINE, LLC**

Dear Secretary McNulty:

INTRODUCTION

For filing please accept the original and ten (10) copies of the Comments of ETC Northeast Pipeline, LLC ("ETC"), a wholly-owned indirect subsidiary of Energy Transfer Partners, L.P. ETC is incorporated in the State of Delaware. ETC currently operates as a gatherer of natural gas from producers in West Virginia and is actively bidding, subject to obtaining any necessary approvals, on gathering requests for proposals from Marcellus Shale natural gas producers in Pennsylvania. ETC's address, company contact, and telephone number are:

ETC Northeast Pipeline, LLC
7000 Stonewood Drive, Suite 351
Wexford, Pa. 15090
Attn. Alan Vaina
(724) 934-0107

MAILING ADDRESS: P.O. BOX 1778 HARRISBURG, PA 17105

The name, address and telephone number of ETC's attorneys, who request to be served with all documents in this matter issued by the Commission, or directed to be served by the Commission, are:

Thomas J. Sniscak, Esquire
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Questions directed to any of the following should be directed to both the company contact as well as to above-listed Pennsylvania counsel for ETC.

ETC commends the Commission for establishing this information gathering and input proceeding and believes, consistent with ETC's answers and comments, that it will facilitate the public interest. ETC respectfully submits the following Answers or Comments to questions posed in the March 25, 2010 Secretarial Letter pertinent to gathering and related services.

An electronic copy of this filing or submission along with any attachments has been provided this day to Jennifer Kocher in the Commission's Office of Communications

ANSWERS OR COMMENTS TO GATHERER QUESTIONS

////////////////////////////////////
Considering the statutory definition of a person, a public utility, a natural gas supplier and natural gas supply services set forth above, and the questions posed below, provide an explanation of how you intend to operate your pipeline:

- 1. What will be the origin and ownership of all gas entering your pipeline? Will the gas only be from your well(s)? If not, identify the origin of each source of gas. Will the gas come from your well(s), and other entities that retain ownership of the gas? Will you only be transporting the gas of others? Will you be buying any gas and transporting it in your pipeline?**

ANSWER: ETC Northeast Pipeline, LLC (“ETC”), provides gathering services for natural gas producers, which may include compression, treating and/or processing services. ETC is not a producer. ETC will typically receive natural gas into its gathering system from the producer(s) at the wellhead, or at a central point of delivery for several wells, and deliver the gas into intrastate or interstate transmission lines. The producer, not the gatherer, typically retains title to the gas, and contracts with the intrastate or interstate pipeline for transportation downstream of ETC’s gathering system. Although ETC does not now intend to take title to the gas, it is not unusual for gatherers to purchase the gas from the producers at the receipt points into the gathering system, and they should not be precluded from doing so. Also, it is not unusual for a third party (e.g., a marketer) to purchase the gas from the producer at the wellhead, and contract with ETC for gathering services in lieu of the producer.

2. **Will you sell any of the gas being transported in your pipeline to individual end use customers along your pipeline? Will any of the gas be delivered into an interstate transmission line? If the gas is delivered to an interstate pipeline and you use the interstate pipeline to transport the gas, where will the title pass and to whom? Will the gas be delivered into an intrastate transmission line? If it is delivered to an intrastate pipeline, will you sell it to the intrastate pipeline or use the intrastate pipeline to transport the gas and sell it further downstream? Will your pipeline be connected to and deliver gas to a utility subject to the jurisdiction of the Pennsylvania Public Utility Commission (Commission)?**

ANSWER: See answer to question 1 above. ETC’s gathering systems do not provide service to end-use customers, but rather are designed to gather gas from natural gas wells and deliver the gas to intrastate and/or interstate pipelines exclusively. Having said that, it is possible that a gathering system could deliver gas directly into a utility subject to the jurisdiction of the Commission. As noted above, the producer typically retains title to the gas, and ETC does not know where the gas is ultimately sold by the producer.

3. **Are the gathering systems and processing facilities that will be built be considered public utility service subject to Commission regulation?**

ANSWER: A compelling argument could be made that gathering systems and processing facilities are not public utilities subject to Commission regulation, on the grounds that the services provided through such facilities are not “to or for the public” but rather are to a limited or privileged class by contract. However, because such services are critical to the development of Pennsylvania gas, and the Commission has stated that such development should be promoted, 52 Pa. Code § 60.1, ETC believes that the public interest would be better served if the Commission were to undertake streamlined regulation of competitive

gatherer and processing services not unlike what it has done for Competitive Access Providers. Specifically, the Commission should not regulate entry (authority should be effective upon filing), siting, rates, service or terms and conditions of service. Similarly, the Commission should not require affiliated interest filings, security certificates, annual reports and similar requirements under the Public Utility Code and regulations intended for retail end-user traditional utility services. Important policy considerations exist (discussed in (3)(b) below) that support such conclusion.

(a) ETC’s Legal Position: Providing gathering systems and processing facilities to producers by contract are arguably not subject to Commission jurisdiction because they are sufficiently restricted or limited and not to or for the public .

As relevant for purposes of the activities of a gatherer or processor providing services solely to producers, a “public utility” is defined under the Pennsylvania Public Utility Code¹ (“Code”) to include:

(1) Any person or corporations now or hereafter owning or operating in this Commonwealth equipment or facilities for:

(i) Producing, generating, *transmitting*, distributing or furnishing *natural or artificial gas*, electricity, or steam for the production of light, heat, or power *to or for the public* for compensation.

(v) *Transporting or conveying natural or artificial gas*, crude oil, gasoline, or petroleum products, materials for refrigeration, or oxygen or nitrogen, or other fluid substance, *by pipeline or conduit, for the public* for compensation.

(2) The term [“public utility”] does not include:

(iii) Any producer of natural gas not engaged in distributing such gas directly *to the public* for compensation.²

At the outset, it is important to note that a gatherer such as ETC does not provide retail service to burner-tip customers. Rather, its service is to producers by contract. Moreover, ETC’s pipeline and related facilities are designed and constructed to serve producers, not general members of the public.

¹ 66 Pa.C.S. § 101, *et seq.*

² 66 Pa.C.S. § 102 (emphasis added).

The longstanding test for public utility status developed by the PA Supreme Court looks at

[w]hether or not such person holds himself out, expressly or impliedly, as engaged in the business of supplying his product or service to the public, as a class, or to any limited portion of it, as contradistinguished from holding himself out as serving or ready to serve only particular individuals.

Waltman v. PA PUC, 596 A.2d 1221, 1223 (Pa. Cmwlth. 1991)(emphasis omitted), *aff'd per curiam* 533 Pa. 304, 621 A.2d 994 (Pa. Supreme Ct. 1993) *citing Drexelbrook Associates v. PA PUC*, 418 Pa. 430, 212 A.2d 237, 239 (1965).

While the court in *Waltman* found that service to a few bulk or wholesale customers (mainly other public utilities or large volume users) was jurisdictional because it was to a limited portion of the public, the court emphasized evidence that there was the potential—which the utility acknowledged—to serve any interested member of the “general public”³ in the future and that the facilities were not designed or constructed to serve a select group of customers but rather were intended for any member of the public.⁴ That is not the case here as: ETC, as a gatherer, is neither holding itself out as interested nor proposing to serve any members of the public other than producers, and the gathering and processing facilities are designed or constructed to serve a select group—producers—as opposed to the general public or burner-tip customers.

More recently in *Pilot Travel Centers, LLC v. Jai-Mai, Inc.* Docket No. C-20031054 (Order Entered Oct. 19, 2006) (“*Jai-Mai*”); *aff'd Pilot Travel Centers, LLC v. PA PUC*, 933 A.2d 123 (Pa. Cmwlth. 2007) (*Pilot Travel*) the Commission found service to a limited segment of customers by contract supported a conclusion that service was not to or for the public but to particular businesses:

Thus, the important consideration is the ability to select and control who will be served through contractual arrangements or otherwise. Restricting service only to particular individuals or businesses by exclusive contract may therefore demonstrate that a service provider has the ability to select and control whom it will serve.

JAI-MAI at 18.

³ *Waltman*, 596 A.2d 1224 (“The fact that only a limited number of persons may have occasion to use a utility’s service does not make it a private undertaking if the general public has a right to subscribe to such a service.”)

⁴ *Id.* at 1225 (“The record also reveals that the applicants’ facilities were not designed or constructed to serve select groups of individuals, but are intended for any member of the public which can use their services.”).

This same conclusion was reached by this Commission in 2007 in *Joint Petition of Border Realty and The Borough of Clarks Summit, Lackawanna County, for Declaratory Judgment that Intra-Municipal Transmission of Wastewater will not Subject the Borough to PUC Jurisdiction Under 66 Pa. C.S. § 102*, Docket No. P-00072255 (Order entered May 31, 2007). There, the Commission declined to find service “‘for the public’ because the Borough limited by contract specific users who may utilize the Service.”⁵ Accordingly, there is a compelling argument that service to producers, by contract by facilities designed and constructed for producers, is not service to or for the public under the Code that amounts to public utility status.

(b) ETC submits policy reasons supporting light-handed regulation.

Given the critical role played by gatherers in the development of the natural gas, ETC submits that gatherers should be required to establish the expertise and financial wherewithall to serve as such in Pennsylvania, and should be granted the eminent domain powers provided public utilities, but should not be burdened by full-scale economic regulation. Such conclusion is supported by compelling policy considerations.

- These are discrete and non-retail services to a discrete and limited group of businesses—producers. The producers are highly sophisticated and need no protection in negotiating contracts with gatherers. It is beyond dispute that throughout this country and in Pennsylvania that there is competition for providing gathering services. Normally, projects (a request for service by a producer) are typically offered and awarded through competitive bidding.
- Moreover, letting the competitive marketplace determine rates and terms of service is a much quicker and effective way—as compared to the delay and costs inherent in regulation—of having gatherers get Marcellus Shale gas to interstate and intrastate transmission line companies who serve the local distribution companies that deliver the gas to the actual retail burner-tip customers.
- Light-handed regulation will encourage gatherers to bid upon and undertake projects that promote Pennsylvania and the United States economy by providing direct and indirect jobs and other spending (e.g. use of local lodging, offices, restaurants, materials...).
- If Pennsylvania employs burdensome regulation of gatherers, there will be a disincentive for gatherers to participate here, and instead will focus on other states such as West Virginia, Louisiana and Texas with no or more favorable regulation of gatherers. This may cause Pennsylvania to be at an economic disadvantage with other states.

⁵ *Border Realty Slip. Op.* at 4.

- The safety of gatherer facilities are still subject to the safety requirements of U.S. DOT regulations as administered by the DOT or (as discussed in a subsequent answer) via delegation to this Commission.
- Light-handed regulation of gatherers encourages them to participate in PA projects. Bona-fide gatherer companies such as ETC bring expertise to owning and operating gathering and processing facilities, and this in and of itself benefits the public as opposed to having such facilities owned or operated by entities who are not in that line of business. Burdensome regulation may make entry and participation non-competitive or too slow for expert gatherer companies to participate in a project. That invites, of necessity, other less qualified persons to provide these gatherer and treatment functions.

For all these reasons, the Commission should undertake streamlined regulation of competitive gatherer and processing services not unlike what it has done for Competitive Access Providers. Specifically, the Commission should not: regulate entry (authority should be effective upon filing) siting, rates, service or terms and conditions of service; require affiliated interest filings, security certificates, annual reports and similar requirements under the Public Utility Code and regulations intended for retail end-user traditional utility services.

As a starting point, the streamlined regulation should amount to a checklist such as the one for a Competitive Access Provider (“CAP”) under the Commission’s streamlined application and regulation regimen established in *In Re: Implementation of the Telecommunications Act of 1996*, Docket No. M-00960799 (Order entered June 3, 1996) (*Implementation Order*). A copy of that application checklist is attached as **ETC Appendix 1**. Notably, because gatherers are not providing what amounts to retail service, the procedures should be significantly less (see the prior paragraph) than even the CAP regulation model. Tariffs should not be required.

In essence, the entry or application should be more in the nature of a registration checklist containing information like that in CAP application **ETC Appendix 1** sections 4, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, and 22. The form could also identify safety contacts and reference PA One Call registration obligations or information.

Finally, conferring public utility status on gatherers would provide them with the eminent domain powers necessary to promote the gathering and processing services that ultimately benefits the public by making Marcellus Shale supply available to burner-tip users.

10. How can we avoid crippling existing and new shallow natural gas production?

ANSWER: The same regulatory scheme should apply equally to all natural gas production.

11. Where does responsibility for inspecting non-jurisdictional intrastate transmission pipelines for safety lie? PUC or U.S. DOT?

ANSWER: The PUC should enforce the DOT regulations.

12. If the PUC enforces the federal gas safety regulations i.e. first metering station, last compressor station downstream, at what physical point should that enforcement begin?

ANSWER: The point at which the gas first enters the gathering or intrastate transmission pipeline.

13. How should that responsible agency recover the expense of ensuring the safety of these non-jurisdictional intrastate transmission pipelines?

ANSWER: After deducting any compensation provided by the federal government for enforcing the DOT regulations, the Commission should recover from its reasonable expenses associated with ensuring such safety from each gatherer on a per mile basis.

14. How should jurisdictional gathering/intrastate transmission pipelines be assessed – total jurisdictional revues or pipeline mileage? Why?

ANSWER: By pipeline mileage. Pipeline mileage is a very transparent metric.

15. What is the role of the PUC in siting gathering/intrastate transmission pipelines?

ANSWER: The Commission should have no role in siting gathering pipelines or related facilities. Pipeline siting should be left exclusively to the pipeline and the individual landowners. Presently, it appears the Commission does not have a role in siting intrastate gas lines for Local Distribution Companies, or for that matter, water or sewer utility lines.

Rather, the Commission only reviews siting of certain electric transmission lines. The reason for this, ETC submits, is that Section 1511 of the Business Corporation Law, 15 Pa. C.S. §1511, requires Commission approval under its subsection (c) for siting and condemning property (under the Eminent Domain Code §§101 *et seq*) for aerial electric or telephone lines outside of a public way (streets, highway, water or other public way). 15 Pa. C.S. §1511(c). No such requirement exists for natural gas, water, sewer and other utility line siting. Thus, ETC respectfully submits that regulating siting of gathering lines and related facilities would violate current law because to regulate siting of natural gas would conflict with the statutory scheme and express terms of Section 1511 of the Business Corporation Law that requires siting regulation by this Commission only for aerial electric and telephone lines outside of the public way.

16. What should the requirements be for jurisdictional gathering/intrastate transmission pipelines to register with PA One Call and how should that be accomplished?

ETC would not oppose such pipelines being required to submit GPS data to PA One Call no later than 60 days after the first flow of gas.

CONCLUSION

ETC respectfully asks this Commission to consider and adopt the positions or alternative regulatory propositions contained in its Answers. ETC thanks the Commission for the opportunity to submit comments.

Respectfully submitted,



Thomas J. Sniscak
Counsel for:
ETC Northeast Pipeline, LLC

TJS/das

cc: James H. Cawley, Chairman
Tyrone Christy, Vice Chairman
Wayne E. Gardner, Commissioner
Robert F. Powelson, Commissioner
Rikardo Hull (rihull@state.pa.us)
Jennifer Kocher (e-copy) (jkocher@state.pa.us)
Karen Oill Moury, Director of Operations
Bohdan R. Pankiw, Chief Counsel, Law Bureau
Robert Wilson, Director, Bureau of Fixed Utility Services
Veronica A. Smith, Chief Administrative Law Judge, OALJ
June Perry, Director, Legislative Affairs
Thomas Charles, Manager, Office of Communications
Paul Diskin, Manager-Energy/Water/Wastewater, Bureau of Fixed Utility Services

ETC APPENDIX "1"

APPLICATION CHECK LIST

Please check the following list to make sure you have enclosed each and every item listed. Your application will not be processed until all items are received.

You will not have provisional authority to do business in Pennsylvania until you receive our acceptance letter.

- One original plus three copies of the Application and attachments, including original and three cover letters;**
- A check for \$250.00 made payable to "Commonwealth of Pennsylvania;"**
- Appropriate Department of State filing(s), in response to Question #5;**
- Articles of Incorporation (if a corporation), in response to Question #5;**
- Proposed Tariff(s), in response to Question #13;**
- Tentative operating balance sheet and projected income statement, in response to Question #14;**
- Certificate of Service evidencing Application was served upon appropriate parties, in response to Question #17;**
- Original signed and notarized Affidavit, in response to #22. CLEC Applicants (other than data-only CLECs) must include a listing of the 911 Coordinators notified by the Applicant;**
- Original signed and notarized Verification Statement, in response to Question #23.**

Application Form for Approval of Authority to Offer, Render, Furnish, or Supply Telecommunications Services to the Public in the Commonwealth of Pennsylvania

The Commission certifies telecommunications carriers for four categories:

- ▶ Interexchange Toll Reseller
- ▶ Competitive Local Exchange Carrier
- ▶ Competitive Access Provider
- ▶ Interexchange Toll Facilities-Based Carrier

Please use the attached form to make your application. Please place all exhibits at the end of the application. If you retype the application, repeat the number and title of each item, following the original numbering scheme. Answer only those items that are applicable to your operations. Indicate skipped items as "not applicable."

To file an application with the Pennsylvania Public Utility Commission, **you must submit a signed and verified original and three copies** of your application and attachments with a check for \$250.00 made payable to the "Commonwealth of Pennsylvania," to the Commission's Secretary at the following address:

Secretary
Pa. Public Utility Commission
Commonwealth Keystone Building
Second Floor - Room N201
Harrisburg, PA 17120

If your answer to any of the items changes while your application is pending, or if the information relative to any item herein changes while you are operating within the Commonwealth of Pennsylvania, you are under a duty to inform the Commission as to the specifics of the change. If you plan to cease doing business within the Commonwealth of Pennsylvania, you are under a duty to request approval from the Commission prior to ceasing business.

You may apply for more than one category of proposed operations in a single filing. To do so, you must separately identify and describe each category of proposed operations in your cover letter accompanying your application in response to Item Numbers 9, 10, 11, and 12 of Form 377. For multiple categories, your response to Item Numbers 10, 11, and 12 must each contain separate subparts, i.e., one subpart for each category of proposed operations.

Each category of proposed operations requires its own separate and distinct tariff. You must append a copy of all proposed tariffs to each original, duplicate original, and copy of Form 377.

Such related filings may be submitted as one filing pursuant to 52 Pa. Code §1.34, for the compilation of filing fees. The filing fee is \$250.00 for any combination of related applications filed simultaneously and pursuant to these instructions.

Application of:

_____, t/a _____,

for approval to offer, render, furnish or supply telecommunications services to the public in the Commonwealth of Pennsylvania.

1. IDENTITY OF THE APPLICANT: The name, address, telephone number, and fax number of the Applicant.

Please identify any predecessors of the Applicant and provide other names under which the Applicant has operated within the preceding five years, including name, address, and telephone number.

2. ATTORNEY: The name, address, telephone number, and fax number of the Applicant's attorney.

3. CONTACTS:

A) APPLICATION: The name, title, address, telephone number, and fax number of the person to whom questions about this application should be addressed.

B) PENNSYLVANIA EMERGENCY MANAGEMENT AGENCY (PEMA): The name, title, address, telephone number and FAX number of the person with whom contact should be made by PEMA (Pennsylvania Emergency Management Agency).

C) RESOLVING COMPLAINTS: Name, address, telephone number, and FAX number of the person and an alternate person responsible for addressing customer complaints. These persons will ordinarily be the initial point(s) of contact for resolving complaints and queries filed with the Public Utility Commission or other agencies.

4. FICTITIOUS NAME:

- The Applicant will not be using a fictitious name.
- The Applicant will be using a fictitious name. Attach to the Application a copy of the Applicant's filing with the Commonwealth's Department of State pursuant to 54 Pa. C.S. §311, Form PA-953.

5. BUSINESS ENTITY AND DEPARTMENT OF STATE FILINGS:

- The Applicant is a sole proprietor.
- The Applicant is a:
 - General partnership
 - Domestic limited partnership (15 Pa. C.S. §8511)
 - *Foreign limited partnership (15 Pa. C.S. §8582)
 - Domestic registered limited liability partnership (15 Pa. C.S. §8201)
 - *Foreign registered limited liability general partnership (15 Pa. C.S. §8211)

*Provide name and address of Corporate Registered Office Provider or Registered Office within PA.

Attach to the application the name and address of partners. If any partner is not an individual, identify the business nature of the partner entity and identify its partners or officers.

Attach to the application proof of compliance with appropriate Department of State filing requirements as indicated above.

5. (Continued)

- The Applicant is a:
 - Domestic corporation (15 Pa. C.S. §1306)

- *Foreign corporation (15 Pa. C.S. §4124)
- Domestic limited liability company (15 Pa. C.S. §8913)
- *Foreign limited liability company (15 Pa. C.S. §8981)

*Provide name and address of Corporate Registered Office Provider or Registered Office within PA.

Attach proof of compliance with appropriate Department of State filing requirements as indicated above. Additionally, provide a copy of the Applicant's Articles of Incorporation or a Certificate of Organization.

The Applicant is incorporated in the State of _____.

Give name and address of officers:

6. AFFILIATES AND PREDECESSORS WITHIN PENNSYLVANIA:

- The Applicant has no affiliates doing business in Pennsylvania or predecessors which have done business in Pennsylvania.
- The Applicant has affiliates doing business in Pennsylvania or predecessors which have done business in Pennsylvania. Name and address of the affiliates. State whether they are jurisdictional public utilities. Give docket numbers for the authority of such affiliates.

If the Applicant or an affiliate has predecessors who have done business within Pennsylvania, give name and address of the predecessors and state whether they were jurisdictional public utilities. Give the docket numbers for the authority of such predecessors.

7. AFFILIATES AND PREDECESSORS RENDERING PUBLIC UTILITY SERVICE OUTSIDE PENNSYLVANIA:

- The Applicant has no affiliates rendering or predecessors which rendered public utility service outside Pennsylvania.
- The Applicant has affiliates rendering or predecessors which rendered public utility service outside Pennsylvania. Name and address of the affiliates and predecessors (please identify affiliates versus predecessors).

8. APPLICANT'S PRESENT OPERATIONS: (Select and complete the appropriate statement)

In Pa only

- The applicant is not presently doing business in Pennsylvania as a public utility.
- The applicant is presently doing business in Pennsylvania as a:
 - Interexchange Toll Reseller, InterLATA and/or IntraLATA, (e.g., MTS, 1+, 800, WATS, Travel and Debit Cards)
 - Interexchange Toll Facilities-based carrier, InterLATA and/or IntraLATA, (e.g., MTS, 1+, 800, WATS, Travel and Debit Cards)
 - Competitive Access Provider (dedicated point-to-point or multipoint service; voice or data)
 - Competitive Local Exchange Carrier:
 - Facilities-Based
 - UNE-P
 - Data Only
 - Reseller
 - Incumbent Local Exchange Carrier.
 - Other (Identify).

9. **APPLICANT'S PROPOSED OPERATIONS:** The Applicant proposes to operate as:
- Interexchange Toll Reseller, InterLATA and/or IntraLATA, (e.g., MTS, 1+, 800, WATS, Travel and Debit Cards)
 - Interexchange Toll Facilities-based carrier, InterLATA and/or IntraLATA, (e.g., MTS, 1+, 800, WATS, Travel and Debit Cards)
 - Competitive Access Provider (dedicated point-to-point or multipoint service; voice or data)
 - Competitive Local Exchange Carrier:
 - Facilities-based
 - UNE-P
 - Data Only
 - Reseller
 - Incumbent Local Exchange Carrier
 - Other (Identify).
10. **PROPOSED SERVICES:** Describe in detail the services which the Applicant proposes to offer. If proposing to provide more than one category in Item #9, clearly and separately delineate the services within each proposed operation. If proposing to operate as a facilities-based Competitive Local Exchange Carrier, provide a brief description of the Company's facilities.
11. **SERVICE AREA:** Describe the geographic service area in which the Applicant proposes to offer services. Clearly and separately delineate the service territory for each category listed in Item #9. For Competitive Local Exchange Carrier operations, you must name and serve the Incumbent Local Exchange Carriers in whose territory you request authority.
12. **MARKET:** Describe the customer base to which the Applicant proposes to market its services. Clearly and separately delineate a market for each category listed in Item #9.

13. **PROPOSED TARIFF(S):** Each category of proposed operations must have a separate and distinct proposed tariff setting forth the rates, rules and regulations of the Applicant. Every proposed tariff shall state on its cover page the nature of the proposed operations described therein, i.e., IXC Reseller, CLEC, CAP, or IXC Facilities-based. A copy of all proposed tariffs must be appended to each original and duplicate original and copy of Form 377.

14. **FINANCIAL: *Attach the following to the Application:***

(Attach as Exhibits – Can be marked “Proprietary”)

A general description of the Applicant’s capitalization and, if applicable, its corporate stock structure;

Current balance sheet, Income Statement, and Cash Flow Statement of Applicant or Affiliated Company, if relying on affiliate for financial security;

A tentative operating balance sheet and a projected income statement for the first year of operation within the Commonwealth of Pennsylvania; provide the name, title, address, telephone number and fax number of the Applicant’s custodian for its accounting records and supporting documentation; and indicate where the Applicant’s accounting records and supporting documentation are, or will be, maintained.

If available, include bond rating, letters of credit, credit reports, insurance coverage and reports, and major contracts.

15. **START DATE:** The Applicant proposes to begin offering services on or about

_____.

16. **FURTHER DEVELOPMENTS:** Attach to the Application a statement of further developments, planned or contemplated, to which the present Application is preliminary or with which it forms a part, together with a reference to any related proceeding before the Commission.

17. **NOTICE:** Pursuant to 52 Pa. Code §5.14, you are required to serve a copy of the signed and verified Application, with attachments, on the below-listed parties, and file proof of such service with this Commission:

Office of Consumer Advocate
555 Walnut Street

Office of Small Business Advocate
Commerce Building, Suite 1102

21. CESSATION: The Applicant understands that if it plans to cease doing business within the Commonwealth of Pennsylvania, it is under a duty to request authority from the Commission for permission prior to ceasing business.

Applicant:

By:

Title:

22. **AFFIDAVIT:** Attach to the Application an affidavit as follows:

AFFIDAVIT

[Commonwealth/State] of _____ :
: ss.
County of _____ :

_____, Affiant, being duly [sworn/affirmed] according to law, deposes and says that:

Affiant is the _____ (Office of Affiant) of _____ (Name of Applicant;)

That Affiant is authorized to and does make this affidavit for said corporation;

That _____, the Applicant herein, acknowledges that [he/she/it] may have an obligation to serve or to continue to serve the public by virtue of the Applicant commencing the rendering of service pursuant to this Application consistent with the Public Utility Code of the Commonwealth of Pennsylvania, Title 66 of the Pennsylvania Consolidated Statutes; with the Federal Telecommunications Act of 1996, signed February 6, 1996, or with other applicable statutes or regulations;

That _____, the Applicant herein, asserts that Affiant] possesses the requisite technical, managerial, and financial fitness to render public utility service within the Commonwealth of Pennsylvania and that the Applicant will abide by all applicable federal and state laws and regulations and by the decisions of the Pennsylvania Public Utility Commission.

That _____, the Applicant herein, asserts that Affiant has contacted the appropriate 911 Coordinator(s) via certified letter, from the list provided from the PUC web site (<http://www.puc.paonline.com>), and that arrangements are under way for the provisioning of emergency 911 service in each of the Counties/Cities where service is to be provided. The applicant certifies Affiant has attached a copy of the 911 Coordinator list indicating each 911 Coordinator contacted.

That the facts above set forth are true and correct] to the best of [Affiant knowledge, information and belief, and that Affiant expects said entity to be able to prove the same at any hearing thereof.

Signature of Affiant

Sworn and subscribed before me this _____ day of _____, _____
Month Year

Signature of official administering oath

My Commission expires _____.

23. §1.36 Verification.

Verification

I, _____, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief), and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date

Signature