

PENNSYLVANIA PUBLIC UTILITY COMMISSION

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The addressee named here has paid the PA P.U.C. for the following bill:

KELLEY DRYE & WARREN LLP
ATTN MELISSA M SMITH
1200 19TH ST NW STE 500
WASHINGTON, DC 20036

DATE 6/28/99
RECEIPT # 195792

Application fees for SNIP LINK LLC

Docket Number A-310820..... \$250.00

REVENUE ACCOUNT: 001780-017601-102

CHECK NUMBER: 005568

CHECK AMOUNT: \$250.00

C. Joseph Meisinger
(for Department of Revenue)

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THE LAW FIRM OF

MALATESTA HAWKE & McKEON LLP

JOSEPH J. MALATESTA, JR.
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KEVIN J. McKEON
LOUISE A. KNIGHT
THOMAS J. SNISCAK
NORMAN JAMES KENNARD
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HARRISBURG, PA 17105

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July 14, 1999

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Room B-18, North Office Building
PO Box 3265
Harrisburg, PA 17120

DOCUMENT
FOLDER

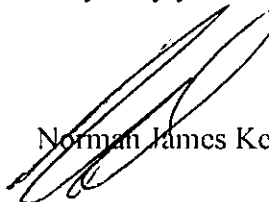
RE: Application of SNiP Link, LLC, for Approval to Offer, Render, Furnish, or Supply Telecommunications Services as a Reseller and Facilities-Based Provider of Local Exchange Services to the Public In the Commonwealth of Pennsylvania; Docket No. A-310820; **PROTEST OF COMMONWEALTH TELEPHONE COMPANY TO THE APPLICATION OF SNIp LINK, LLC**

Dear Mr. McNulty:

Enclosed for filing in the above-captioned proceeding are the original and three (3) copies of the Protest of Commonwealth Telephone Company to the Application filed by SNiP Link, LLP.

Thank you for your attention to this matter. If you should have any questions, please feel free to call me.

Very truly yours,



Norman James Kennard

NJK/bes
Enclosures

SRB

ORIGINAL

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of SNiP Link, LLC, for :
Approval to Offer, Render, Furnish, or :
Supply Telecommunications Services as a : Docket No. A-310820
Reseller and Facilities-Based Provider of :
Local Exchange Services to the Public in :
the Commonwealth of Pennsylvania :

DOCKETED

JUL 19 1999

PROTEST OF
COMMONWEALTH TELEPHONE COMPANY
TO THE APPLICATION OF
SNIIP LINK, LLC

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SECRETARY'S BUREAU

NOW COMES Commonwealth Telephone Company ("Commonwealth"), by and through its attorneys, Malatesta Hawke & McKeon LLP, and protests the above-referenced Application pursuant to 52 Pa. Code §5.51. In support thereof, Commonwealth avers as follows:

I. BACKGROUND

1. On April 27, 1999, SNiP Link, LLC ("SNiP Link") filed an Application with the Pennsylvania Public Utility Commission ("Commission") for approval to offer, render, furnish, or supply telecommunications services as a reseller and facilities-based provider of Local Exchange Services ("CLEC") to the public in the Commonwealth of Pennsylvania. SNiP Link states that it will operate as a reseller and facilities-based provider of local exchange service. The territory sought by SNiP Link's Application includes the service territory of Commonwealth. Accordingly, Commonwealth has a direct, immediate and substantial interest in the Application and has standing to assert the present Protest.

DOCUMENT
FOLDER

2. The interests of Commonwealth are not being represented by any current participant in this Application proceeding. Commonwealth may be bound by determinations made by the Commission, relative to this Application, which could adversely affect its interests.

3. The full name, address and telephone number of the protestant is:

Commonwealth Telephone Company
100 Lake Street
Dallas, PA 18612-1015

Commonwealth's attorney, upon whom all documents are requested to be served, is:

Norman James Kennard
Malatesta Hawke & McKeon LLP
Harrisburg Energy Center
100 North Tenth Street
PO Box 1778
Harrisburg, PA 17101
(717) 236-1300

II. RURAL TELEPHONE COMPANIES

4. Commonwealth is a rural telephone company as defined under Section 3(a)(47) of the Telecommunications Act of 1996 ("TCA-96"),¹ which this Commission has recognized in its Orders entered at Docket No. M-00960799.²

5. The Commission in its June 3, 1996 Order and in the Order on Reconsideration, set forth consolidated entry procedures to be utilized by CLEC applicants seeking authority within the service territories of rural telephone companies. The consolidated procedures apply to SNIp Link's Application to provide service within Commonwealth's service territory.

¹ 47 U.S.C. Section 153(a)(47).

² *Re: Implementation of the Telecommunication Act of 1996*, Docket No. M-00960799; Orders entered June 3, 1996 and September 9, 1996 ("Order on Reconsideration").

III. APPLICATION

6. This Commission has stated that applications seeking authority to enter the service territory of rural telephone companies as defined under Section 3(a)(47) of the TCA-96 “will be subject to normal procedures under 66 Pa. C.S. Sections 1101 and 1103 and the traditional public interest standard, which is consistent with the standards contained in Section 254 of the 1996 Act.”³ Accordingly, SNiP Link’s Application, which seeks to provide competitive services within Commonwealth’s service territory, must be denied if it fails to meet these traditional standards.

7. Pursuant to 66 Pa. C.S. Section 332(a), SNiP Link bears the burden of proof as to all issues relating to its Application. Therefore, SNiP Link must prove necessary elements required by the Commission by substantial evidence or its Application must be denied. Commonwealth believes, and therefore asserts, that SNiP Link is or may not be fit to provide the services requested, that the existing service is not inadequate, that there is not a public need for the proposed service, and that it is not in the public interest to approve the Application.

A. Procedural Defects

8. SNiP Link’s Application is procedurally defective in that it fails to comply with the Consolidated Procedures.

- (a) SNiP Link has not filed with its Application a *bona fide* request for interconnection under Section 251(f)(1)(a) with Commonwealth.
- (b) SNiP Link has failed to make a request for a Universal Service designation pursuant to Section 214(e)(2) committing to provide service throughout the desired service territory.

³ Order on Reconsideration at 6.

- (c) SNiP Link has failed to address both the technical feasibility of the suggested interconnection and the economic impact interconnection will have upon Commonwealth. Accordingly, SNiP Link's Application is contrary to the Commission's June 3 Order, and its Order on Reconsideration, and the Consolidated Procedures adopted therein. SNiP Link's Application should be denied, therefore.

IV. BASIS OF PROTEST

9. Pursuant to 66 Pa. C.S. Section 332(a), SNiP Link bears the burden of proof as to all issues relating to its Application. SNiP Link must therefore prove all necessary elements required by the Commission by substantial evidence or its Application must be denied.⁴

10. The Commission imposes a three part test in its review of Applications. The test consists of the following three requirements:

- (a) The applicant must prove that it has the necessary fitness to provide the proposed service;
- (b) The applicant must prove inadequacy of the existing service; and
- (c) The applicant must prove that there is a public need for the proposed service.

11. SNiP Link has the additional burden of proving that the interconnection under Section 251(b) and (c) is not unduly burdensome, is technically feasible and is consistent with the concerns expressed in TCA-96 relative to Universal Service. SNiP Link's Application fails to address these issues and, accordingly, is deficient on this basis.

⁴ *Re: Mobil Phone of Northeastern Pennsylvania*, 54 Pa. PUC 521 (1980).

1. Fitness to Provide Service

12. SNiP Link, as the applicant, must prove that it has the necessary fitness to provide the proposed service to the public. The Commission has adopted a three-part definition of fitness as follows:

- (a) Technical fitness: The applicant must have the ability to actually provide the necessary service;
- (b) Financial fitness: An applicant must have the financial ability to make the necessary investment in equipment and facilities and should have sufficient financial capacity to ensure that adequate service will be rendered to the public; and,
- (c) Legal fitness.

a. Financial Fitness

13. SNiP Link has not demonstrated that it possess the financial capacity and fitness to provide adequate service throughout the service territory sought in its Application, including the existing service territory of Commonwealth. SNiP Link has failed to provide projected financial data with its Application, as required by the Commission's CLEC Application procedures. The Application does not contain a tentative operating balance sheet or a projected income statement. Additionally, the Application does not contain a proposed Initial Tariff, as required by the Commission. The information which has been provided does not provide any basis upon which to determine SNiP Link's financial fitness to provide the applied-for services on an ongoing basis. Accordingly, Commonwealth avers that SNiP Link does not possess the necessary financial fitness to provide the services for which it seeks authority.

b. Technical Fitness

14. SNiP Link has failed to set forth any information, including staffing, operational, or facilities, necessary to make an informed decision as to its technical fitness to provide the applied-for services. Accordingly, Commonwealth avers that SNiP Link does not possess the technical fitness to provide the service in the territory for which it seeks authority.

c. Legal Fitness

15. SNiP Link has not provided any information or indication in its Application that it possess the requisite legal fitness necessary for approval of its Application. Accordingly, SNiP Link's Application should be denied.

2. Inadequacy of Existing Service

16. SNiP Link has failed to present any information or evidence which would demonstrate that the service currently being rendered by either Commonwealth or other incumbent local exchange carriers in the territory sought is in any way inadequate. Accordingly, SNiP Link's Application should be denied.

3. Public Need for the Proposed Service

17. As the applicant, SNiP Link must demonstrate that the proposed service is reasonably necessary for the accommodation and convenience of the public.

18. The Commission has recognized that it is appropriate to consider the issue of whether and how much competition to allow when addressing the issue of public need.⁵

⁵ *Re: Apollo Gas Company*, 72 Pa. PUC 208 (1990) (citing *Sayer v. Pennsylvania Public Utility Commission*, 54 A.2d 95 (Pa. Super. 1947)).

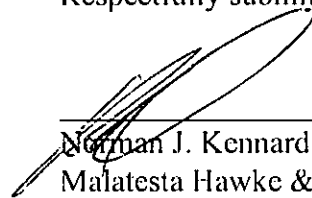
19. SNiP Link has failed to provide any information or evidence relating to a public need for the service it proposes within Commonwealth's service territory. Accordingly, SNiP Link has failed to meet its burden of proving that a public need exists for the proposed service, and, as a result, its Application should be denied.

V. CONCLUSION

20. SNiP Link's Application suffers from numerous technical and procedural defects.⁶ Additionally, SNiP Link has failed to meet its burdens with regard to its Application to provide service in Commonwealth's territory. SNiP Link has failed to support its Application by providing information relating to its financial, technical and legal fitness. It has failed to demonstrate or indicate that the service being rendered by Commonwealth is in any way inadequate and that there is a public need for the service proposed in its Application. Accordingly, for all the reasons set forth above, SNiP Link's Application should be denied.

WHEREFORE, Commonwealth Telephone Company respectfully requests that the above-referenced Application be denied.

Respectfully submitted,



Norman J. Kennard
Malatesta Hawke & McKeon LLP
Harrisburg Energy Center
100 North Tenth Street
P.O. Box 1778
Harrisburg, PA 17105
(717) 236-1300

Counsel for
Commonwealth Telephone Company

Dated: July 14, 1999

⁶ There may be additional defects beyond those specified herein and Commonwealth reserves the right to amend its Protest based upon further review of the Application.

CERTIFICATE OF SERVICE

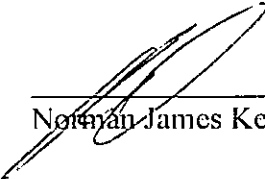
I hereby certify that I am this day serving a copy of the foregoing document upon the person named and in the manner indicated below.

Service by First Class U.S. Mail:

Melissa M. Smith, Esquire
Steven A. Augustino, Esquire
Ross A. Buntrock, Esquire
KELLEY DRYE & WARREN LLP
1200 19th Street, Fifth Floor
Washington, DC 20036

Joseph Polito, Jr.
Director of Telecommunications Sales
SNiP Link, LLC
900 Route 168, Suite E4
Blackwood, NJ 08012

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Norman James Kennard

DATED: July 14, 1999

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DIRECT LINE (202) 955-9667
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July 27, 1999

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PA PUBLIC UTILITY COMMISSION
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James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Room B-18, North Office Building
Harrisburg, PA 17120

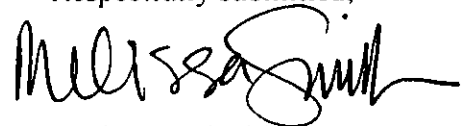
**Re: Application of SNiP Link, LLC for Approval to Offer, Render,
Furnish, or Supply Telecommunications Services as a Reseller and
Facilities-Based Provider of Local Exchange Services to the Public in
the Commonwealth of Pennsylvania; Docket No. A-310820**

Dear Mr. McNulty:

Enclosed for filing in the above-captioned proceeding are an original and three (3) copies of an amendment to the Application of SNiP Link, LLC. Also enclosed is a duplicate copy of this filing and a self-addressed stamped envelope. Please date-stamp the duplicate upon receipt and return it in the envelope provided.

Thank you for your attention to this matter. If you should have any questions, please do not hesitate to contact me.

Respectfully submitted,



Melissa M. Smith

Enclosures

cc: All parties listed on Certificate of Service
Steven K. Haas



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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

JUL 27 1999

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Application of SNiP Link, LLC, for :
Approval to Offer, Render, Furnish, or :
Supply Telecommunications Services as a :
Reseller and Facilities-Based Provider of :
Local Exchange Services to the Public in :
the Commonwealth of Pennsylvania :

Docket No. A-310820

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JUL 29 1999

AMENDMENT TO APPLICATION

NOW COMES, SNiP Link, LLC ("SNiP"), and hereby files this amendment to its application to provide competitive local exchange ("CLEC") service in the Commonwealth of Pennsylvania. By this amendment, SNiP hereby modifies the service territory for which it seeks a Certificate of Public Convenience to operate as a CLEC.

(1) On November 19, 1998, SNiP filed an application with the Pennsylvania Public Utility Commission ("Commission") for approval to offer, render, furnish or supply telecommunications services as a CLEC to the public within Pennsylvania ("Application"). SNiP filed its tariff with rates and served the ILECs on June 23, 1999.

(2) In paragraph 11 of its Application, SNiP set forth the geographic area in which it proposed to offer CLEC services as follows:

SNiP Link proposes to offer local exchange telecommunications services on a statewide basis, excepting those exchanges served by companies that have had interconnection obligations suspended by the Commission.

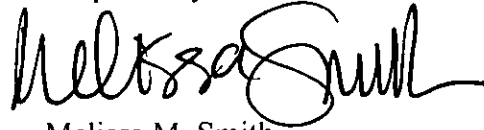
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(3) By this amendment, SNiP hereby amends paragraph 11 of its Application by modifying its proposed CLEC service territory as follows:

SNiP proposes to offer local exchange telecommunications services on a statewide basis, excepting those exchanges served by companies that have had interconnection obligations suspended by the Commission, and, specifically, excluding the service territory of Commonwealth Telephone Company.

(4) SNiP also requests that the caption of this proceeding be revised to reflect this amendment to its proposed operating territory.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Melissa M. Smith". The signature is fluid and cursive, with a large loop at the end.

Melissa M. Smith
On Behalf of SNiP Link, LLC

Dated: July 27, 1999

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a copy of the foregoing document upon the person named and in the manner indicated below.

Service By First Class U.S. Mail:

Irwin A. Popowsky, Esquire
Office of Consumer Advocate
555 Walnut Street
Forum Place - 5th Floor
Harrisburg, PA 17120

Bernard A. Ryan, Jr., Esquire
Office of Small Business Advocate
Commerce Building, Suite 1102
300 North Second Street
Harrisburg, PA 17101

Office of Attorney General
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Harrisburg, PA 17105-3265

Bureau of Consumer Services
Pennsylvania Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265

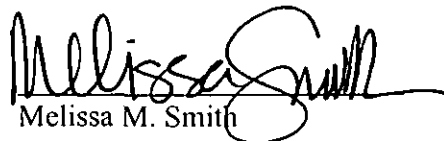
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Julia A. Conover, Esquire
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Philadelphia, PA 19103

John O. Dudley
Regional Director - External Affairs
GTE North, Inc.
212 Locus Street - Suite 600
PO Box 12060
Harrisburg, PA 17108

Michael P. Sharry, Manager
Regional Affairs
Commonwealth Telephone Company
100 Lake Street
Dallas, PA 18612

Norman J. Kennard
Malatesta Hawke & McKeon LLP
PO Box 178
Harrisburg, PA 17105


Melissa M. Smith

Dated: July 27, 1999

JOSEPH J. MALATESTA, JR.
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KEVIN J. McKEON
LOUISE A. KNIGHT
THOMAS J. SNISCAK
NORMAN JAMES KENNARD
LILLIAN SMITH HARRIS
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SUSAN J. SMITH
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August 3, 1999

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James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Room B-18, North Office Building
PO Box 3265
Harrisburg, PA 17120

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RE: Application of SNIP Link, LLC for Approval to Offer, Render, Furnish or Supply Telecommunications Services as a Reseller and Facilities-Based Provider of Local Exchange Service to the Public in the Commonwealth of Pennsylvania; Docket No. A-310820; **AMENDMENT TO APPLICATION OF SNIP LINK, LLC/WITHDRAWAL OF PROTEST OF COMMONWEALTH TELEPHONE COMPANY**

Dear Mr. McNulty:

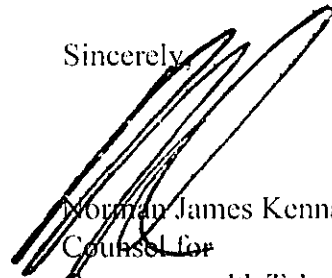
On July 27, 1999, SNIP Link, LLC ("SNIP Link") filed an amendment to the above captioned application which modifies the territory sought in the original application. The original application sought approval to provide competitive local exchange services throughout the Commonwealth of Pennsylvania. By its amendment, SNIP Link limits the territory sought by excluding the service territory of Commonwealth Telephone Company.

Commonwealth Telephone Company ("Commonwealth") has reviewed the amendment filed by SNIP Link. Please be advised that Commonwealth supports the amendment to SNIP Link's application and, if the amended application is approved by the Pennsylvania Public Utility Commission, then Commonwealth will withdraw its protest in this proceeding.

Thank you very much for your attention to this matter. Please do not hesitate to contact me with any questions you may have.

James J. McNulty, Secretary
August 3, 1999
Page 2

Sincerely,

A handwritten signature in black ink, appearing to read 'Norman James Kennard', written over the typed name.

Norman James Kennard
Counsel for
Commonwealth Telephone Company

NJK/SKH/bes

cc: Melissa M. Smith
Michael P. Sharry

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the persons and in the manner indicated below.

Service by first class mail:

Irwin A. Popowsky, Esquire
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1921

Bernard A. Ryan, Jr., Esquire
Office of Small Business Advocate
Suite 1102 - Commerce Building
300 North Second Street
Harrisburg, PA 17101

Office of Attorney General
Bureau of Consumer Protection
Strawberry Square, 14th Floor
Harrisburg, PA 17120

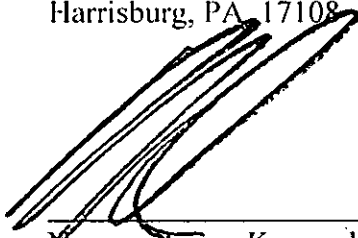
Office of Trial Staff
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John O. Dudley
Regional Director - External Affairs
GTE North Incorporated
212 Locust Street - Suite 600
PO Box 12060
Harrisburg, PA 17108



Norman James Kennard

PA.P.U.C.
SECRETARY'S BUREAU

99 AUG - 3 AM 11:09

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DATE: August 3, 1999

Bell Atlantic - Pennsylvania, Inc.
1717 Arch Street, 32
Philadelphia, PA 19103
Tel: (215) 963-6023
Fax: (215) 563-2658

Christopher M. Arfaa
Regulatory Counsel

August 4, 1999



VIA FEDERAL EXPRESS

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
North Street & Commonwealth Avenue
North Office Building - Room B20
Harrisburg, PA 17120

ORIGINAL RECEIVED

AUG 04 1999

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

RE: Joint Petition of Bell Atlantic - Pennsylvania, Inc. and SniP Link, LLC for
Approval of an Interconnection Agreement.
Dkt. No. A-310820

DOCUMENT FOLDER

Dear Mr. McNulty:

Pursuant to the Public Utility Commission's Order entered June 28, 1999, the parties in the above-referenced matter were directed to file a true and correct copy of their Interconnection Agreement. Please be advised that the true and correct copy of the Agreement is the Agreement which the parties filed on March 17, 1999.

Very truly yours,


Christopher M. Arfaa

EEF

DOCKETED
AUG 06 1999

CMA/dc

cc: Steven Augustino, Esq. (Via Federal Express)

KELLEY DRYE & WARREN LLP

A LIMITED LIABILITY PARTNERSHIP

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September 3, 1999

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Room B-18, North Office Building
Harrisburg, PA 17120

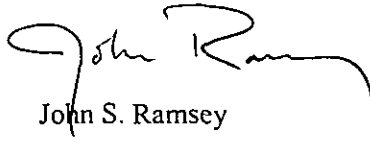
Re: Application of SNiP Link, LLC for Approval to Offer, Render, Furnish, or Supply Telecommunications Services as a Reseller and Facilities-Based Provider of Local Exchange Services to the Public in the Commonwealth of Pennsylvania; Docket No. A-310820

Dear Mr. McNulty:

It has recently come to our attention that certain parties to this proceeding did not receive copies of the original application. By this letter, we notify the Commission that copies of the application have now been provided to these parties. While we believe no harm has come from this omission, we sincerely apologize for this oversight, and respectfully request that the Commission continue its review of the application with all speed. Please date stamp the extra copy of this letter and return it in the self addressed stamped envelope provided.

Thank you for your attention to this matter. If you should have any questions, please do not hesitate to contact me.

Respectfully submitted,


John S. Ramsey

cc: All parties listed on Certificate of Service
Steven K. Haas

EEF