



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE  
REFER TO OUR FILE

ISSUED: December 14, 2006

A-310800F0010  
A-311095F0005  
A-311225F0003

NORMAN J KENNARD ESQUIRE  
LILLIAN S HARRIS ESQUIRE  
HAWKE MCKEON SNISCAK & KENNARD LLP  
100 NORTH TENTH STREET  
HARRISBURG PA 17101

## DOCUMENT FOLDER

Joint Application of Commonwealth Telephone Company, CTSI, LLC and CTE Telecom, LLC  
d/b/a Commonwealth Long Distance Company

TO WHOM IT MAY CONCERN:

Enclosed is a copy of the Initial Decision of Administrative Law Judge Susan D. Colwell. This decision is being issued and mailed to all parties on the above specified date.

If you do not agree with any part of this decision, you may send written comments (called Exceptions) to the Commission. Specifically, an original and nine (9) copies of your signed exceptions **MUST BE FILED WITH THE SECRETARY OF THE COMMISSION 2<sup>ND</sup> FLOOR, KEYSTONE BUILDING, 400 NORTH STREET, HARRISBURG, PA OR MAILED TO P.O. BOX 3265, HARRISBURG, PA 17105-3265, within **twenty (20) days** of the issuance date of this letter.** The signed exceptions will be deemed filed on the date actually received by the Secretary of the Commission or on the date deposited in the mail as shown on U.S. Postal Service Form 3817 certificate of mailing attached to the cover of the original document (52 Pa. Code §1.11(a)) or on the date deposited with an overnight express package delivery service (52 Pa. Code 1.11(a)(2), (b)). If your exceptions are sent by mail, please use the address shown at the top of this letter. A copy of your exceptions must also be served on each party of record. 52 Pa. Code §1.56(b) cannot be used to extend the prescribed period for the filing of exceptions/reply exceptions. A certificate of service shall be attached to the filed exceptions.

If you receive exceptions from other parties, you may submit written replies to those exceptions in the manner described above within **ten (10) days** of the date that the exceptions are due.

Exceptions and reply exceptions shall obey 52 Pa. Code 5.533 and 5.535 particularly the 40-page limit for exceptions and the 25-page limit for replies to exceptions. Exceptions should clearly be labeled as "EXCEPTIONS OF (name of party) - (protestant, complainant, staff, etc.)".

If no exceptions are received within **twenty (20) days**, the decision of the Administrative Law Judge may become final without further Commission action. You will receive written notification if this occurs.

Very truly yours,

James J. McNulty  
Secretary

Encls.  
Certified Mail  
Receipt Requested  
MH

See attached list for additional parties of record.



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P.O. BOX 3265, HARRISBURG, PA 17105-3265

ISSUED: January 4, 2007  
(Re-served)

IN REPLY PLEASE  
REFER TO OUR FILE  
A-310800F0010  
A-311095F0005  
A-311225F0003

NORMAN J KENNARD ESQUIRE  
LILLIAN S HARRIS ESQUIRE  
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100 NORTH TENTH STREET  
HARRISBURG PA 17101

DOCUMENT  
FOLDER

Joint Application of Commonwealth Telephone Company, CTSI, LLC and CTE Telecom, LLC  
d/b/a Commonwealth Long Distance Company

TO WHOM IT MAY CONCERN:

Enclosed is a copy of the Initial Decision of Administrative Law Judge Susan D. Colwell.

An original and nine (9) copies of signed exceptions to the decision, if any, **MUST BE FILED WITH THE SECRETARY OF THE COMMISSION 2<sup>ND</sup> FLOOR, KEYSTONE BUILDING, 400 NORTH STREET, HARRISBURG, PA OR MAILED TO P.O. BOX 3265, HARRISBURG, PA 17105-3265; a copy in the hands of the Office of Special Assistants, Third Floor; and a copy in the hands of each party of record no later than January 12<sup>th</sup> 2007, in hand, by 4:30 P.M.** 52 Pa. Code §1.56(b) cannot be used to extend the prescribed period for the filing of exceptions or reply exceptions.

Replies to exceptions, if any, must be served on the Secretary of the Commission, in the manner described above, no later than **January 22<sup>nd</sup> 2007, in hand by 4:30 P.M.** as well as served upon the parties. A certificate of service shall be attached to the filed exceptions.

Exceptions and reply exceptions shall obey 52 Pa. Code 5.533 and 5.535, particularly the 40-page limit for exceptions and the 25-page limit for replies to exceptions. Exceptions should be clearly labeled as "EXCEPTIONS OF (name of party) - (protestant, complainant, staff, etc.)".

Any reference to specific sections of the Administrative Law Judge's Initial Decision shall include the page number(s) of the cited section of the decision.

Parties are also requested to provide the Commission's Office of Special Assistants with a copy of exceptions/reply exceptions on a computer disk, 3 1/2" in size, in Microsoft Word 6.0 format. If Word 6.0 is not available, either Wordperfect 5.1 or ASCII format is acceptable.

**DOCKETED**  
JAN 4 - 2007

Rpb  
Encls.  
Certified Mail  
Receipt Requested

Very truly yours,

James J. McNulty  
Secretary

See Attached List for Additional Parties of Record

A-310800F0010, A-311095F0005, A-311225F0003 JOINT APPLICATION OF COMMONWEALTH TELEPHONE COMPANY, CTSI, LLC AND CTE TELECOM, LLC D/B/A COMMONWEALTH LONG DISTANCE COMPANY FOR ALL APPROVALS UNDER THE PUBLIC UTILITY CODE FOR THE ACQUISITION BY CITIZENS COMMUNICATIONS COMPANY OF ALL OF THE STOCK OF THE JOINT APPLICANTS' CORPORATE PARENT, COMMONWEALTH TELEPHONE ENTERPRISES, INC.

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joint Application of Commonwealth	:	
Telephone Company, CTSI, LLC, and CTE	:	A-310800F0010
Telecom, LLC d/b/a Commonwealth Long	:	A-311095F0005
Distance Company for All Approvals	:	A-311225F0003
Under the Public Utility Code for the	:	
Acquisition By Citizens Communications	:	
Company of All of the Stock of the	:	
Joint Applicants' Corporate Parent,	:	
Commonwealth Telephone Enterprises, Inc.	:	

**DOCUMENT  
FOLDER**

**INITIAL DECISION REGARDING THE PRELIMINARY OBJECTIONS OF  
COMMONWEALTH TELEPHONE COMPANY, CTSI, LLC AND CTE TELECOM,  
LLC D/B/A COMMONWEALTH LONG DISTANCE TO DISMISS PROTEST AND  
PETITION TO INTERVENE OF THE BROADBAND CABLE ASSOCIATION OF  
PENNSYLVANIA**

Before  
Susan D. Colwell  
Administrative Law Judge

**DOCKETED**  
DEC 15 2006

HISTORY OF THE PROCEEDING

On September 29, 2006, Commonwealth Telephone Company, CTSI, LLC, and CTE Telecom, LLC d/b/a Commonwealth Long Distance (Commonwealth, CTCO, or Joint Applicants) filed an Application for approvals necessary under the Public Utility Code for the Joint Applicants' parent company, Commonwealth Telephone Enterprises, Inc., to be acquired by Citizens Communications Company (Application). The Application was published in the *Pennsylvania Bulletin* October 14, 2006, 36 Pa. B. 6355, with a protest due date of October 30, 2006.

On October 30, 2006, a Protest and Petition to Intervene was filed by each of the following: RCN Corporation and RCN Telecom Services, Inc. (RCN); Sprint Communications Company L.P. (Sprint); Blue Ridge Digital Phone Company (Blue Ridge); and, Broadband

Cable Association of Pennsylvania (BCAP). A Protest and Preliminary Objections were filed by the Communications Workers of America (CWA), but the Preliminary Objections were withdrawn by letter dated November 13, 2006. A Protest and Public Statement was filed by both the Office of Small Business Advocate (OSBA) and the Office of Consumer Advocate (OCA), and a Notice of Appearance was filed on behalf of the Office of Trial Staff (OTS). Citizens Communications Company (Citizens) filed a Petition to Intervene.

On November 9, 2006, Joint Applicants filed an Answer to the Preliminary Objections of CWA.

On November 8, 2006, a Notice of Prehearing Conference was issued which set the prehearing conference for November 29, 2006 in Harrisburg.

On November 10, 2006, Joint Applicants filed Preliminary Objections to Dismiss Portions of the Protest and to Limit Participation of the CWA, and joined by Citizens, a separate set of Preliminary Objections to dismiss Protests and Petitions to Intervene of Blue Ridge, Sprint, BCAP and RCN.

On November 13, 2006, I issued a prehearing order which set forth some of the procedural requirements of a hearing before the Commission and required the parties to submit a prehearing memoranda in accordance with the regulations.

On November 20, 2006, CWA, Blue Ridge, Sprint, BCAP and RCN filed Answers to the Joint Applicants' Preliminary Objections.

On November 20, 2006, the Joint Applicants filed letters indicating that they did not oppose the participation of the OCA, OSBA and OTS.

All parties of record filed Prehearing Memos and the following were represented at the prehearing conference: for Joint Applicants, Norman J. Kennard, Esq.; for OSBA, Steven Gray, Esq., and Lauren Lepkoski, Esq.; for OCA, Shaun Sparks, Esq. and Joel Cheskis, Esq.; for OTS, Robert V. Eckenrod, Esq.; for Citizens, Lillian S. Harris, Esq.; for BCAP and Blue Ridge,

Pamela Polacek, Esq.; for CWA, Scott J. Rubin, Esq.; for Sprint, Jennifer Duane, Esq., and for RCN, John F. Povilaitis, Esq., and Matthew A. Totino, Esq.

A separate Order has been issued which sets a litigation schedule for the parties to follow, and disposes of uncontested motions. Another Order has been issued to dispose of the Preliminary Objections of the Joint Applicants to Limit Participation of the Communications Workers of America. A third Order addresses the Preliminary Objections of the Joint Applicants and Citizens to Dismiss Protests and Petitions to Intervene of Blue Ridge Digital Phone Company, Sprint Communications Company LP and RCN Telecom Services, Inc. This Initial Decision grants the Preliminary Objections of the Joint Applicants to the Protests and Petitions to Intervene filed by the Broadband Cable Association of Pennsylvania (BCAP) and the RCN Corporation.

#### FINDINGS OF FACT

1. Joint Applicants are Commonwealth Telephone Company, CTSI, LLC, and CTE Telecom, LLC d/b/a Commonwealth Long Distance Company.
2. On September 29, 2006, Commonwealth Telephone Company, CTSI, LLC, and CTE Telecom, LLC d/b/a Commonwealth Long Distance (Commonwealth or Joint Applicants) filed an Application for approvals necessary under the Public Utility Code for the Joint Applicants' parent company, Commonwealth Telephone Enterprises, Inc., to be acquired by Citizens Communications Company (Application).
3. The Application was published in the Pennsylvania Bulletin October 14, 2006, 36 Pa. B. 6355, with a protest due date of October 30, 2006.
4. On October 30, 2006, a Protest and Petition to Intervene was filed by each of the following: RCN Corporation and RCN Telecom Services, Inc. (RCN); Sprint Communications Company L.P. (Sprint); Blue Ridge Digital Phone Company (Blue Ridge); and, Broadband Cable Association of Pennsylvania (BCAP).

5. A Protest and Preliminary Objections were filed by the Communications Workers of America (CWA), but the Preliminary Objections were withdrawn by letter dated November 13, 2006.

6. A Protest and Public Statement was filed by both the Office of Small Business Advocate (OSBA) and the Office of Consumer Advocate (OCA), and a Notice of Appearance was filed on behalf of the Office of Trial Staff (OTS).

7. Citizens Communications Company (Citizens) filed a Petition to Intervene.

8. On November 9, 2006, Joint Applicants filed an Answer to the Preliminary Objections of CWA.

9. On November 8, 2006, a Notice of Prehearing Conference was issued which set the prehearing conference for November 29, 2006 in Harrisburg.

10. On November 10, 2006, Joint Applicants filed Preliminary Objections to Dismiss Portions of the Protest and to Limit Participation of the CWA, and joined by Citizens, a separate set of Preliminary Objections to dismiss Protests and Petitions to Intervene of Blue Ridge, Sprint, BCAP and RCN.

11. On November 13, 2006, I issued a prehearing order which set forth some of the procedural requirements of a hearing before the Commission and required the parties to submit a prehearing memoranda in accordance with the regulations.

12. On November 20, 2006, CWA, Blue Ridge, Sprint, BCAP and RCN filed Answers to the Joint Applicants' Preliminary Objections.

## DISCUSSION

Joint Applicants and Citizens filed Preliminary Objections seeking to dismiss the petitions to intervene and protests of five entities: Blue Ridge, Sprint, BCAP, RCN Telecom Services, Inc. and RCN Corporation. The Preliminary Objections are denied by a separate Order regarding Blue Ridge, Sprint and RCN Telecom Services, Inc. This Initial Decision grants the Preliminary Objections against BCAP and RCN Corporation and denies their Petitions to Intervene and Protests.

Parties may file preliminary objections:

**§ 5.101. Preliminary objections.**

(a) *Grounds.* Preliminary objections are available to parties and may be filed in response to a pleading except motions and prior preliminary objections. Preliminary objections must be accompanied by a notice to plead, must state specifically the legal and factual grounds relied upon and be limited to the following:

- (1) Lack of Commission jurisdiction or improper service of the pleading initiating the proceeding.
- (2) Failure of a pleading to conform to this chapter or the inclusion of scandalous or impertinent matter.
- (3) Insufficient specificity of a pleading.
- (4) Legal insufficiency of a pleading.
- (5) Lack of capacity to sue, nonjoinder of a necessary party or misjoinder of a cause of action.
- (6) Pendency of a prior proceeding or agreement for alternative dispute resolution.

52 Pa. Code § 5.101(a).

In deciding the preliminary objections, the Commission must determine whether, based on well-pleaded factual averments of the Petitioners, recovery or relief is possible. *Dept. of Auditor General, et al v. SERS, et al.*, 836 A.2d 1053, 1064 (Pa. Cmwlth. 2003), 2003 Pa. Commw. LEXIS 849; *P.J.S. v. Pa. State Ethics Comm'n*, 669 A.2d 1105 (Pa. Cmwlth. 1996) 1996 Pa. Commw. LEXIS 11. Any doubt must be resolved in favor of the non-moving party by refusing to sustain the preliminary objections. *Boyd v. Ward*, 802 A.2d 705 (Pa. Cmwlth. 2002) 2002 Pa. Commw. LEXIS 580. All of the non-moving party's averments in the complaint must

be viewed as true for purposes of deciding the preliminary objections, and only those facts specifically admitted may be considered against the non-moving party. *Ridge v. State Employees' Retirement Board*, 690 A.2d 1312 (Pa. Cmwlth. 1997) 1997 Pa. Commw. LEXIS 148.

In order to have standing, a party must have an interest which is substantial, direct, and immediate:

A "substantial" interest is an interest in the outcome of the litigation which surpasses the common interest in procuring obedience to the law. A "direct" interest requires a showing that the matter complained of caused harm to the party's interest. An "immediate interest involves the nature of the causal connection between the action complained of and the injury to the party challenging it and is shown where the interest the party seeks to protect is within the zone of interest sought to be protected by the statutes or the constitutional guarantee in question. *George v. Pa. Publ. Util. Comm'n*, 735 A.2d 1282, 1286 (Pa. Cmwlth. Ct. 1999).

Joint Applicants allege<sup>1</sup> that the CLEC Protestants do not have standing to participate in this proceeding, stating that all of them are currently seeking CLEC (competitive local exchange carrier) status in CTCO's territory but none have been granted it. This was true at the time of the filing, but since then, Sprint's application has been granted, and due to the pending applications for authority to compete, intervention has been granted to Sprint, Blue Ridge and RCN Telecom in another order.

BCAP and RCN Corporation, however, present a different set of facts.

Commission regulations provide:

**§ 5.72. Eligibility to intervene.**

(a) *Persons*. A petition to intervene may be filed by a person claiming a right to intervene or an interest of such nature that intervention is necessary or appropriate to the administration of the statute under which the proceeding is brought. The right or interest may be one of the following:

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<sup>1</sup> The Preliminary Objections are presented in one document which refers to Sprint, Blue Ridge, RCN Telecom Services Inc., RCN Corporation and BCAP as "CLEC Protestants" and does not distinguish between BCAP and the other entities. BCAP and RCN Corporation are lumped with the others as "CLECs" but there is no indication in the pleadings that either BCAP or RCN Corporation has that status.

(1) A right conferred by statute of the United States or of the Commonwealth.

(2) An interest which may be directly affected and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission in the proceeding.

(3) Another interest of such nature that participation of the petitioner may be in the public interest.

\* \* \*

In merger and acquisition cases, where it is the action for which approval is sought that may or may not result in harm to the protestants, there can be no existing, actual harm until the transaction has occurred. This is analogous to motor carrier cases in which approval is sought for new or additional authority, and protests may be filed against the transaction based on the potential harm.

In Application of Carriage Limousine Services, Inc., Docket No. A-00108361, F.1, Am-B, Administrative Law Judge Robert P. Meehan thoroughly discussed the issue of a protestant's standing. In his Initial Decision dated October 12, 1994, which became final by operation of law (Order entered December 23, 1994), ALJ Meehan said:

On the question of standing to protest an application to obtain a certificate of public convenience, it appears that a protestant must have some operating authority in *actual, or potential conflict*, with the authority sought by an applicant to have the requisite standing to protest the application. See, Application of Glen Alsace Water Company, 45 PA PUC 472 (1971), standing denied to uncertificated protestant; Re Francis M. Bauer, 50 PA PUC 825 (1977), late-filed protest allowed where protestant had an application for conflicting authority pending; Re Capitol Bus Company, 53 PA PUC 590 (1979), call or demand authority conferred no standing to protest scheduled route service application; Application of Ronald M. McDonald, t/d/b/a Rusmin Trucking, A-00107696, F.2 (entered February 21, 1989), operations under temporary authority with permanent authority application pending sufficient to confer standing upon a protestant; Application of Team Brokerage, Inc., A-00105267 (entered March 6, 1985) and Application of Interstate Express, Inc., A-00111077 (entered April 1, 1994), certificated common carriers lack standing to protest applications for brokerage authority; and Application of Commercial Aggregates Transportation and Sales, L.P., A-0011085, F0003 (entered June 22, 1994), certificated common

carrier lacked standing to continue to prosecute the protest after restrictive amendment eliminated all areas of operating authority between the protestant and the applicant. I.D. 7-8 (emphasis added).

Standing to protest is established when the protestant either holds competing authority *or has filed an application for competing authority*. Without either holding or having filed for competing authority, the interest in the case by a party is a generalized interest, not the legally protectible and tangible interest required.

RCN Corporation and RCN Telecom Services are lumped together in the pleadings, but as two distinct entities, they should be treated differently. RCN Telecom has standing, but there is no indication in the pleadings that RCN Corporation is a competitor, potential competitor, or customer of the Joint Applicants or Citizens. Rather, it is explained as only as the parent company of RCN Telecom Services, Inc. As such, it will not be permitted to participate independently and the Preliminary Objection to its participation will be granted.

BCAP states that its standing to protest and intervene is established by its status as an association of both potential and current competitors of one or more of the Joint Applicants, and by the demonstration of the harm that may occur as a result of the approval of the acquisition. BCAP Answer, p. 2. BCAP is “an association of Pennsylvania cable television operators, equipment suppliers, programmers and other allied companies. Its members collectively provide cable service to approximately 3.8 million homes in Pennsylvania. An increasing number of BCAP members are providing voice service offerings to customers in Pennsylvania using PUC-certificated telephone affiliates and other non-jurisdictional arrangements. Additional BCAP members are interested in providing IP-enabled digital voice services to consumers in Pennsylvania. In addition to seeking to compete with Incumbent Local Exchange Carriers (“ILECs”) such as CTCo regarding video programming and high speed data service options, BCAP members have affiliates that are certificated to provide CLEC service in Pennsylvania in potential competition with CTSI. Affiliates of other BCAP members are providing and/or seeking to provide voice services in competition with CTCo. As current and potential competitors to CTCo, CTSI and the Frontier companies already owned by Citizens in

Pennsylvania for data, video and voice services, BCAP's members have a direct interest in this proceeding that is not represented by any other party." BCAP Answer, pp. 2-3.

Joint Applicants and Citizens refer to the application of Service Electric for CLEC status,<sup>2</sup> and BCAP explained that Service Electric Telephone is a partially-owned subsidiary of a BCAP member. Service Electric is certificated in the CTCO territory. BCAP Answer p. 5. Both Joint Applicants and BCAP seem to rely on this "partially-owned subsidiary of a BCAP member" relationship to establish BCAP interest in this proceeding.

The Commission has addressed participation by associations. In *Appalachian Gas Sales, Inc. v. Philadelphia Electric Company*, 67 Pa. PUC 246 (1988), the Appalachian Gas Sales, Inc. (AGS), had filed a Complaint on its own behalf although it had acted as agent for two of PECO's gas customers. The Commission found that the customers would have had standing to file complaints, and that AGS could establish its own independent cause of action against Respondent because AGS was also a marketer of gas, as well as a customer of PECO, and thus was affected by the terms of the PECO tariff.

In *Pa. Publ. Util. Comm'n v. PG&W, et al.*, Docket Nos. R-922169, R-922169C001, and R-922169C002 (1992 Pa. PUC LEXIS 113)(Order Issued October 29, 1992), the Commission answered the specific question: "Do independent natural gas producers and marketers have standing to intervene in a proceeding involving the tariff filing of a regulated gas utility?" The Commission found that the regulatory scheme of the Commission had changed considerably since prior cases had been issued, and that the Commission's mandate to require gas transportation tariffs resulted in the transportation of natural gas to be in the public interest. Therefore, the association representing these interests was afforded standing. The holding distinguished the AGS case as well as *Pennsylvania Natural Gas Association v. T.W. Phillips Gas & Oil Co.*, Docket Nos. C-902902, C-913239 (Order entered December 20, 1991). The relevant paragraph reads:

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<sup>2</sup> *Joint Petition of Commonwealth Telephone Company and Service Electric Telephone Company, LLC for Approval of a Negotiated Interconnection Agreement under Section 252(e) of the Telecommunications Act of 1996*, Docket No. A-310651F7003 (Opinion and Order entered August 19, 2004).

Returning to the case at hand, we observe that to the extent the gas marketer or broker asserts an interest that is purely competitive, *Pa. Petroleum Association* would carry more force and would be dispositive of the standing question. Where, the marketer or broker asserts an interest grounded in obtaining access to facilities which are monopolistic in nature and in their practical effect, we find a sufficient basis on which to distinguish *Pa. Petroleum Association*.<sup>3</sup> *Pa. Publ. Util. Comm'n v. PG&W*, 1992 Pa. PUC LEXIS 113 at \*12.

The Commission Order's reference to *Pa. Petroleum Association* is especially relevant here. While the *PG&W* decision highlights the Commission's readiness to permit those entities which are seeking access to the facilities which are monopolistic in nature to participate in Commission proceedings, *Pa. Petroleum Association* is squarely on point for those associations which do not represent entities seeking access to those facilities. The interest that BCAP expresses is not just competition, it is *uncertificated competition*. BCAP states that its members *have affiliates* which are certificated, and seeks to rely on that tenuous relationship to support a finding of standing here. BCAP states that it "has an interest in ensuring on behalf of its member that CTCo fulfills its promise of enhanced treatment of CLECs . . . . In addition, other BCAP members may consider entering the CTCo territory . . . ." BCAP Answer, p. 6.

BCAP states that it "maintains an interest in this proceeding as an association consisting of current competitors with CTCo, as well as potential competitors with CTCo and its potential affiliates. However, the Commission has stated that "we observe that to the extent the gas marketer or broker asserts an interest that is purely competitive, *Pa. Petroleum Association* would carry more force and would be dispositive of the standing question." See *Pa. Publ. Util. Comm'n v. PG&W*, *supra*. Under *Pa. Petroleum Association*, BCAP has no standing.

Although it is likely that some of the *affiliates* of some of the members would have standing, the BCAP pleadings do not claim that the association itself is comprised of entities which would have standing, either as existing CLECs in the CTCo or CTSI territory, or as customers. The members may be competing, but that competition occurs outside the certification granted by the Commission. The competition is in cable telephony, which is not

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<sup>3</sup> *Pennsylvania Petroleum Association v. Pennsylvania Power & Light Company*, 377 A.2d 1279 (Pa. Cmwlth. Ct. 1977), *aff'd* 488 Pa. 308, 412 A.2d 522 (1990)(*Pa. Petroleum Association*).

currently regulated. Therefore, the association cannot have standing either in its own right or on behalf of the members in a proceeding before this Commission to determine whether to approve the acquisition of the Joint Applicants' stock by Citizens Communications Company.

Accordingly, the Petition to Intervene of the Broadband Cable Association of Pennsylvania will be denied, and its Protest dismissed for lack of standing.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Preliminary Objection of Commonwealth Telephone Company, CTSI, LLC, and CTE Telecom, LLC d/b/a Commonwealth Long Distance Company and Citizens Communications Company to Dismiss Protest and Petition to Intervene of the Broadband Cable Association of Pennsylvania is granted.

2. That the Petition to Intervene and Protest of the Broadband Cable Association of Pennsylvania are dismissed.

3. That the Preliminary Objection of Commonwealth Telephone Company, CTSI, LLC, and CTE Telecom, LLC d/b/a Commonwealth Long Distance Company and Citizens Communications Company to Dismiss Protest and Petition to Intervene of the RCN Corporation is granted.

4. That the Protest and Petition to Intervene of RCN Corporation are dismissed.

Dated: December 14, 2006

  
Susan D. Colwell  
Administrative Law Judge

A-310800F0010, A-311095F0005, A-311225F0003 JOINT APPLICATION OF COMMONWEALTH TELEPHONE COMPANY, CTSI, LLC AND CTE TELECOM, LLC D/B/A COMMONWEALTH LONG DISTANCE COMPANY FOR ALL APPROVALS UNDER THE PUBLIC UTILITY CODE FOR THE ACQUISITION BY CITIZENS COMMUNICATIONS COMPANY OF ALL OF THE STOCK OF THE JOINT APPLICANTS' CORPORATE PARENT, COMMONWEALTH TELEPHONE ENTERPRISES, INC.

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ADAM L BENSHOFF ESQUIRE  
MCNEES WALLACE & NURICK  
100 PINE STREET PO BOX 1166  
HARRISBURG PA 17108-1166

*RUSH*

*IP 20/10*

*Labels attached.*

DEC 14 2006

ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

AND NOW, to wit, this 5<sup>th</sup> day of January, 2007

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of Initial Decision an official Commission document entered, issued, or otherwise promulgated under date of January 4, 2007 at Docket No. A-310800F0010, A-311095F0005, A-311225F0003 on behalf of:

ROBERT ECKENROD, JOHNNIE SIMMS, ESQS  
PA PUC - OFFICE OF TRIAL STAFF  
PO BOX 3265  
HARRISBURG PA 17105-3265

*A-310800F0010 IID*

  
\_\_\_\_\_  
Signature

Kindly sign and date this acceptance of service and acknowledgement of receipt, and, return the same for filing to:

SECRETARY'S BUREAU RECORD RETENTION  
PA PUBLIC UTILITY COMMISSION  
KEYSTONE BUILDING 2<sup>ND</sup> FLOOR  
400 NORTH STREET  
Harrisburg, PA 17105-3265

SECRETARY'S BUREAU  
PA PUC

2007 JAN -5 AM 8:17

RECEIVED

RECEIVED  
06 JAN -5 AM 8:13  
PA PUC  
OFFICE OF TRIAL STAFF

ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

AND NOW, to wit, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_,

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of Initial Decision an official Commission document entered, issued, or otherwise promulgated under date of January 4, 2007 at Docket No. A-310800F0010, A-311095F0005, A-311225F0003 on behalf of:

W LLOYD JR, L LEPKOSKI, S WEBB  
OFFICE OF SMALL BUSINESS ADVOCATE  
300 N 2ND ST SUITE 1102 COMMERCE BL  
HARRISBURG PA 17101

*A-310800F0010 I/D*

JAN 5 2007

OFFICE OF SMALL BUSINESS  
ADVOCATE

\_\_\_\_\_  
Signature

Kindly sign and date this acceptance of service and acknowledgement of receipt, and, return the same for filing to:

SECRETARY'S BUREAU RECORD RETENTION  
PA PUBLIC UTILITY COMMISSION  
KEYSTONE BUILDING 2<sup>ND</sup> FLOOR  
400 NORTH STREET  
Harrisburg, PA 17105-3265

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JAN - 8 2007

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

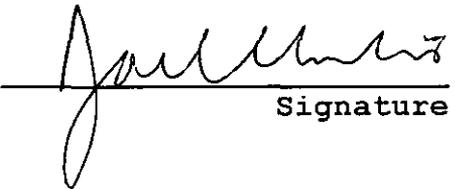
ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

AND NOW, to wit, this 4 day of Jan, 2007

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of Initial Decision an official Commission document entered, issued, or otherwise promulgated under date of January 4, 2007 at Docket No. A-310800F0010, A-311095F0005, A-311225F0003 on behalf of:

IRWIN POPOWSKY JOEL CHESKIS SHAUN SPARKS  
OFFICE OF CONSUMER ADVOCATE  
555 WALNUT STREET 5TH FLOOR FORUM PLACE  
HARRISBURG PA 17101-1923

*A-310800F0010 IID*

  
Signature

Kindly sign and date this acceptance of service and acknowledgement of receipt, and, return the same for filing to:

SECRETARY'S BUREAU RECORD RETENTION  
PA PUBLIC UTILITY COMMISSION  
KEYSTONE BUILDING 2<sup>ND</sup> FLOOR  
400 NORTH STREET  
Harrisburg, PA 17105-3265

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PA PUBLIC UTILITY COMMISSION  
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