

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C.

Received

APR 05 1999

Common Carrier Bureau  
Network Service Division  
Office of the Chief

In the Matter of the New York Department of Public Service  
Public Service Petition for Additional Authority to Implement  
Number Conservation Measures )

DOCKET FILE COPY ORIGINAL

File No. NSD-L-99-21

CC DOCKET 96-98

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COMMENTS OF CABLEVISION LIGHTPATH, INC.

Cablevision Lightpath, Inc. ("Lightpath") hereby responds to the Federal Communications Commission Office of Secretary

Communications Commission's ("FCC's") Public Notice<sup>1/</sup> seeking comment on the New York Department of Public Service's ("Department's") recent Petition for Additional Delegated Authority to Implement Number Conservation Measures.<sup>2/</sup> Lightpath is a competitive local exchange carrier ("CLEC") serving residential and business customers in New York.<sup>3/</sup> As the FCC is fully aware, the availability of NXX codes impacts the ability of CLECs to introduce competitive choices to customers. Lightpath is concerned that without immediate and

<sup>1/</sup> Public Notice, File No. NSD-L-99-21, Common Carrier Bureau Seeks Comment on New York Department of Public Service Petition for Additional Authority to Implement Number Conservation Measures (March 5, 1999).

<sup>2/</sup> New York State Department of Public Service Petition for Additional Authority to Implement Number Conservation Measures, NSD File No. L-97-42, In the Matter of Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215 and 717, CC Docket No. 96-98, In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, (Feb. 19, 1999).

<sup>3/</sup> Lightpath is also authorized to provide all forms of telecommunications in Connecticut, New Jersey, Massachusetts, and Ohio.

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appropriate measures, the current system of number allocation will result in stifled competition and unnecessary implementation of new area codes.

Historically states have acted as laboratories to test pro-competitive policies which were intended to expedite and facilitate the development of competitive telephony alternatives. Through the Department's efforts to adopt pro-competitive policies, New York has been a leader among the states in opening the local exchange market to competition, and its numbering resource proposals are fully consistent with its pro-competitive goals. Given the extreme scarcity of numbers in New York, Lightpath urges the FCC to grant the Department the requisite delegated authority to quickly and appropriately address these issues.

Lightpath strongly supports in particular the Department's sound proposals to implement both interim unassigned number porting and mandatory number pooling once it is feasible. In response to the Department's October 1998 Ruling Inviting Comments on numbering resources, Lightpath advocated mandatory number pooling and interim number porting, much like the Department proposes in its petition.<sup>47</sup> The Department's proposed measures will curtail number exhaustion and will ensure that the potential for robust competition in the local exchange market is not slowed. Accordingly, the FCC should grant the Department's request for authority to initiate number porting and mandatory pooling, as detailed.

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<sup>47</sup> Attached as an Appendix are the Comments of Cablevision Lightpath, Inc., filed in Case 98-C-0689, Proceeding on Motion of the Commission, Pursuant to Section 97(2) of the Public Service Law, to Institute an Omnibus Proceeding to Investigate the Efficiency of Usage of Telephone Numbering Resources and to Evaluate the Options for Making Additional Central Office Codes and/or Area Codes Available in Areas of New York State, When and Where Needed (Nov. 5, 1998); see also Ruling Inviting Comments, Case 98-C-0689 ("Ruling") (Issued Oct. 15, 1998).

Lightpath also supports the Department's request for auditing and enforcement authority. Such authority will ensure compliance with the Department's number assignment and utilization requirements, and avoid the uncertainty and mistrust associated with self-policing. Pooling will not be truly "mandatory" without appropriate auditing and enforcement mechanisms.

For the reasons set forth above, and as detailed in Lightpath's comments to the Department's Ruling on numbering resources, the FCC should grant the Department's petition for additional delegated authority to implement number conservation measures, such as interim number porting and mandatory number pooling. Accordingly, the FCC also should grant the Department the auditing and enforcement authority necessary to safeguard these number conservation measures.

Respectfully submitted,

CABLEVISION LIGHTPATH, INC.



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April 5, 1999

DCDOCS: 146950.3 (35dy031.doc)

**ATTACHMENT**

**Comments of Cablevision Lightpath, Inc.  
New York Case 98-C-0689  
November 5, 1998**

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**BY HAND**

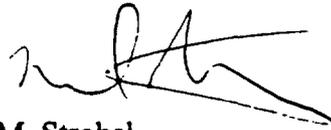
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Re: Case No. Case 98-C-0689; Proceeding on Motion of the Commission, Pursuant to Section 97(2) of the Public Service Law, to Institute an Omnibus Proceeding to Investigate the Efficiency of Usage of Telephone Numbering Resources and to Evaluate the Options for Making Central Office Codes and/or Area Codes Available in Areas of New York State, When and Where Needed.

Dear Ms. Renner:

Enclosed please find an original and fifteen (15) copies of Cablevision Lightpath, Inc.'s Comments for filing in the above-referenced proceeding. If you have any questions concerning this matter, please do not hesitate to contact me.

Sincerely,



Gil M. Strobel

Enclosure

cc: The Honorable Joel A. Linsider (by hand)  
Attached Service List

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**Before the  
STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION**

Proceeding on Motion of the Commission, )  
Pursuant to Section 97(2) of the Public Service )  
Law, to Institute an Omnibus Proceeding to )  
Investigate the Efficiency of Usage of Telephone ) Case 98-C-0689  
Numbering Resources and to Evaluate the Options )  
for Making Central Office Codes and/or Area Codes )  
Available in Areas of New York State, When and Where )  
Needed. )

**COMMENTS OF CABLEVISION LIGHTPATH, INC.**

Pursuant to the New York Public Service Commission's ("PSC's") Ruling Inviting Comments issued October 15, 1998 ("Ruling"), Cablevision Lightpath, Inc. ("Lightpath"), by its attorneys, hereby files these comments in the above-referenced proceeding.<sup>1/</sup> As Lightpath will demonstrate, central office codes are currently used inefficiently and in a manner that is harmful to competition in the local market. This inefficiency can be alleviated by implementing mandatory "number pooling" to make better use of existing resources and promote competition in the New York market.<sup>2/</sup> Lightpath therefore requests that the PSC seek

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<sup>1/</sup> In accordance with the Commission's request, these comments address the efficiency with which central office codes are used and how that efficiency might be improved. See Ruling Inviting Comments, Case 98-C-0689, Proceeding on Motion of the Commission, Pursuant to Section 97(2) of the Public Service Law, to Institute an Omnibus Proceeding to Investigate the Efficiency of Usage of Telephone Numbering Resources and to Evaluate the Options for Making Additional Central Office Codes and/or Area Codes Available in Areas of New York State, When and Where Needed ("Ruling") (Issued October 15, 1998) at 2.

<sup>2/</sup> Number pooling is already being pursued through a collaborative process involving both the Staff and industry representatives. See Order Instituting Proceeding, Case 98-C-0689, Proceeding on Motion of the Commission, Pursuant to Section 97(2) of the Public Service Law, to Institute an Omnibus Proceeding to Investigate the Efficiency of Usage of Telephone Numbering Resources and to Evaluate the Options for Making Additional Central Office

a waiver of the Federal Communications Commission's ("FCC's") recent numbering decision<sup>3/</sup> so that mandatory number pooling may be implemented throughout New York state, at least on a trial basis.<sup>4/</sup> In the meantime, the Commission should consider implementing "porting on demand" as a means of alleviating the current code shortage.

## INTRODUCTION AND SUMMARY

Lightpath is a facilities-based competitive local exchange carrier ("CLEC") holding central office codes ("CO codes" or "NXXs") in New York. As such, Lightpath is directly affected by the inefficient way in which these codes are currently utilized, particularly in Long Island. For example, the inefficient use of central office codes has created a number shortage in the 516 area code. This shortage has harmed competition by preventing CLECs, such as

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footnote continued ....

Codes and/or Area Codes Available in Areas of New York State, When and Where Needed ("Order Instituting Proceeding") (Issued July 13, 1998) at 4.

<sup>3/</sup> Although the FCC currently allows only voluntary number pooling, it has indicated that it might be willing to approve number pooling plans that fall outside its current guidelines. See Memorandum Opinion and Order and Order on Reconsideration in CC Docket 96-98, NSD File No. L-97-42, Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717, and CC Docket No. 96-98. Implementation of the Local Competition Provisions of the Telecommunications Act of 1996 ("Federal Numbering Decision") (released September 28, 1998) at ¶¶ 24-31 (allowing number pooling trials as long as carrier participation is voluntary, and encouraging states that are considering number pooling trials that fall outside the FCC's guidelines to submit their plans to the Common Carrier Bureau). For example, the FCC is allowing Illinois to conduct a mandatory pooling trial. See id. at 30. It is vital that number pooling be mandatory, because carriers are unlikely to voluntarily pool numbers at rate centers experiencing code shortages.

<sup>4/</sup> The PSC could also move for reconsideration of the FCC's decision. Petitions for reconsideration of that decision will be due within thirty days of the time a summary of the decision is published in the Federal Register. See Clarification of Filing Deadline for Petitions for Reconsideration of the Commission Order Addressing the July 15, 1997 Order of the Pennsylvania Public Utility Commission, Public Notice, DA 98-2150 (Rel. Oct. 26, 1998). No summary had appeared in the Federal Register as of November 4, 1998.

Lightpath, from serving new customers in certain geographic areas. The Commission could alleviate many of these problems if it were able to implement mandatory number pooling. Number pooling would promote competition by allowing numbers to be assigned in a more efficient manner.<sup>5/</sup> The Commission should therefore petition the FCC for an exemption of the FCC's recent numbering decision.<sup>6/</sup> The Commission should also consider requiring incumbent local exchange carriers ("ILECs") to transfer unused numbers through "porting on demand" as a means of making better use of existing CO codes -- at least until number pooling or rate center consolidation can be implemented. Without number pooling, rate center consolidation, or porting on demand, numbering resources will continue to be wasted, creating the need for additional area codes.

## DISCUSSION

The current method for allocating numbering resources is inefficient and has harmed competition. Each local exchange carrier ("LEC") seeking to serve a particular rate center must obtain a unique set of NXXs. NXXs are assigned in blocks of 10,000.<sup>7/</sup> Any time a

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<sup>5/</sup> Rate center consolidation would also alleviate many of the problems with the current system. In light of the Commission's request, however, these comments will focus exclusively on number pooling. See Ruling at 2 (requesting that commenters "avoid detailed consideration of rate center consolidation").

<sup>6/</sup> As the Commission is aware, although it is prepared to take the lead in devising solutions to the numbering problems, "some of the actions that could prove warranted, may fall within the purview of the ... FCC." Ruling at 1. As the Commission noted, "[i]n such instances, the information adduced in this proceeding might form the basis for policies to be advocated before the FCC rather than for concrete actions by the Commission." Id. Lightpath's position calls for both advocacy before the FCC and concrete action by the Commission in an effort to "take the lead" in solving the numbering shortage confronting New York and other states. See id. at 1-2.

<sup>7/</sup> A telephone number is generally represented as NPA-NXX-XXXX, with "NPA" representing a numbering plan area, or area code and the second set of three digits, or

customer changes service providers, and also changes its phone number, the new provider must have its own block of NXXs at the customer's rate center to be able to serve that customer. While this system may have been adequate in the days of monopoly service, it is simply not viable in the current era of competition.

Before competition, a rate center with 10,000 customers could have been served by one carrier using a single NXX. Today, with the advent of competition, that same rate center may be served by multiple LECs, each one needing its own unique NXX. This leads to the inefficient use of numbering resources. For example, under the current system, a rate center with 10,000 customers being served by five LECs requires the assignment of 50,000 numbers (5 LECs x 10,000 numbers each) to provide only 10,000 customer lines. This leaves 40,000 numbers unused (50,000 numbers assigned minus 10,000 numbers actually used). This inefficient allocation of NXXs can constrain competition by limiting the number of LECs that can serve rate centers experiencing code jeopardy. By stranding tens of thousands of unused numbers, the current system creates artificial number shortages which prevent CLECs from serving customers in certain areas.

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footnote continued ....

"NXX," representing the central office code. For example, in the number 708/555-6000, 708 represents the NPA, or area code, 555 represents the central office code, ("CO code," or "NXX") and 6000 is the actual line number. Each central office code, or NXX, contains 10,000 numbers (10,000 unique line numbers, or "XXXXs"). There are generally 792 NXX codes available in any given area code, representing every possible three digit combination, excluding numbers beginning with a 0 or a 1 or numbers ending with 11. Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Second Report and Order and Memorandum Opinion and Order, 11 FCC Rcd 19392, 19511 ¶ 267, n. 573 (August 8, 1996) ("Local Competition Second Report and Order"); Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech-Illinois, 10 FCC Rcd 4596 at ¶ 2 (January 23, 1995) ("Ameritech Order").

These number shortages have severely hampered Lightpath's ability to compete in parts of New York. For example, Lightpath had planned to roll out residential service in an area of Long Island served by five rate centers in the 516 area code. Lightpath's applications for NXXs in the area were rejected. Instead, Lightpath was required to enter into a code lottery to receive an NXX.<sup>8/</sup> To date, Lightpath has received only one NXX covering one rate center, leaving it unable to serve the other 4 rate centers in which it had planned to compete. Thus, the current number shortage is having a direct negative impact on Lightpath's ability to compete for and serve new customers in areas where it cannot obtain an NXX.

These harmful numbering shortages could be alleviated if numbers were allocated more efficiently through either number pooling or rate center consolidation.<sup>9/</sup> Originally, numbers had to be assigned in blocks of 10,000 due to technological limitations.<sup>10/</sup> The move to permanent local number portability ("LNP") has brought about a change in technology that allows numbers to be assigned individually.<sup>11/</sup> With LNP, it is no longer necessary to assign

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<sup>8/</sup> Until recently, states lacked the authority to impose rationing plans. See Federal Numbering Decision at ¶ 23 ("a state commission ordering NXX code rationing, or any other NXX code conservation measure is, under the current regulatory structure, acting outside the scope of its delegated authority"). However, under the FCC's recent numbering decision, a state commission may now ration NXX codes when an area code is in jeopardy and the state has already chosen an area code relief method and established a relief date. See id. at ¶ 48 and at Appendix B.

<sup>9/</sup> For the reasons explained above, these comments focus only on number pooling. See Ruling at 2.

<sup>10/</sup> The original technology in the network did not allow for the identification of calls below the NPA level. This meant that numbers could only be allocated in blocks of 10,000 because each provider had to be assigned its own unique three digit NXX in order to be identified by the network.

<sup>11/</sup> By utilizing a database application, LNP identifies each number separately, allowing the network to direct calls to individual numbers, rather than in blocks of NXXs.

numbers in blocks of 10,000.<sup>12/</sup> Instead, numbers can now be assigned (or “pooled”) in any increment from one to 10,000.<sup>13/</sup>

The Commission should be allowed to take advantage of this change in technology by requiring that CO codes be assigned more efficiently. If the FCC granted the Commission the right to implement mandatory number pooling, a carrier could be assigned only those numbers it actually needs to serve a given rate center (i.e., 1,000 numbers to serve 1,000 customers). Even if numbers were to be assigned in blocks, the size of each block could be reduced (i.e., numbers could be assigned in blocks of 10, 100, or 1,000 rather than only in blocks of 10,000). No matter how it is used, number pooling would promote the efficient use of numbers by minimizing the need to “strand” unused numbers.<sup>14/</sup> Thus, number pooling would

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<sup>12/</sup> Interim number portability (“INP”) does not create the same advantages as LNP. In fact, INP leads to an even less efficient use of numbering resources, by requiring the use of two phone numbers to serve a single line. When a customer switches providers, but keeps the same number using INP, the incumbent LEC (“ILEC”) retains the original number (within one NXX) and forwards the call to a “shadow” number provided by the CLEC (within the CLECs own NXX). INP only exacerbates the numbering shortage by adding a new layer of inefficiency on top of the existing problems with the assignment of NXXs.

<sup>13/</sup> The current system fails to take advantage of the LNP technology, however. Although the vast majority (almost 90%) of customers who switch providers wish to retain their existing numbers, Lightpath must still obtain its own NXX to serve the small minority of customers within a rate center that wish to change their phone numbers. This leads to the same artificial numbering shortages explained above, because numbers are still assigned in blocks of 10,000 despite the fact that the LNP technology allows for them to be allocated in smaller units.

<sup>14/</sup> For example, 1,000 customers served by five LECs in a single rate center would require the allocation of only 1,000 numbers, instead of the 50,000 required under the current system (5 LECs, each assigned a unique NXX block of 10,000 numbers). This would save 49,000 numbers from being stranded. Even if the numbers were assigned in blocks of 1,000, only 5,000 numbers would have to be assigned, and only 4,000 numbers would be stranded.

lead to a more efficient use of numbering resources and would increase competition by removing artificial restraints on the number of LECs that can serve a given rate center.<sup>15/</sup>

Number pooling is also more efficient and pro-competitive than adding a new area code, either through overlay<sup>16/</sup> or through geographic split.<sup>17/</sup> Implementing a new area code only makes more numbers available, it does not increase the efficiency with which those numbers are used. Number pooling would free up numbers within the available NXXs and negate the need for a new area code. In addition, number pooling would avoid the pitfalls associated with new area codes. For example, adding a new area code by means of an overlay would discriminate in favor of the ILECs at the expense of CLECs because the incumbent carrier already has a supply of NXXs within the current NPA, or area code. In New York City, for example, the ILEC (Bell Atlantic) already has a host of NXX numbers within the 212 area code.<sup>18/</sup> Only new competitors would have to utilize the new overlaid area code. This would put the CLECs at a competitive disadvantage given the entrenched nature of the 212

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<sup>15/</sup> The Commission itself has argued in favor of number pooling in proceedings in front of the FCC. See Order, NSD File No. L-98-03, In the Matter of New York Department of Public Service Petition for Expedited Waiver of 47 C.F.R. Section 52.19(c)(3)(ii) (“New York Waiver Order”) (rel. July 20, 1998) at ¶ 9.

<sup>16/</sup> An area code overlay consists of implementing the new area code in the same geographic area as the existing area code. Customers in the area could then be served by either code. Local Competition Second Report and Order at ¶ 273. One disadvantage of an overlay is that it would require all customers to use ten-digit dialing, even for local calls.

<sup>17/</sup> A geographic split occurs when the geographic area using an existing area code is split into two parts, with a proportional number of the telephone customers changing to the new area code, while the rest retain their original phone numbers and area code. See id.

<sup>18/</sup> As of February, 1998, nearly 85 percent of CO codes in the 212 area code had been assigned to Bell Atlantic (625 CO codes had been assigned to Bell Atlantic, while only 112 had been assigned to all CLECs combined). A similar disparity existed in the 718 area code, with Bell Atlantic holding a 498 to 94 advantage in central office codes. New York Waiver Order at ¶ 12.

area code and the perceived prestige associated with it. Thus, an overlay should be imposed only as a last resort.

A geographic split would create similar problems, and raise a whole new set of issues. For example, determining the location of the split would raise questions related to the network as well as social and demographic issues. Moreover, a geographic split would confuse and annoy customers by requiring many of them to change their phone numbers. This would entail huge business expenses as companies would have to change stationery and business cards, notify their customers of new phone numbers, re-program speed-dial numbers, and implement many other changes.<sup>19/</sup>

The FCC has stated that “[n]umber pooling is not a substitute for area code relief” reasoning that “at this time” it does not sufficiently assure that all carriers will have access to numbering resources.<sup>20/</sup> If properly implemented, however, number pooling can obviate the need for new area codes. By making more efficient use of existing numbers, number pooling reduces the need for new area codes and promotes competition by leaving more numbers available for competitors. Thus, number pooling is one of the measures, along with rate center consolidation, that “may decrease the frequency of the need for area code relief.”<sup>21/</sup> In fact, both Illinois and Pennsylvania are currently implementing number pooling trials,

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<sup>19/</sup> See New York Waiver Order at ¶ 14 (implementation of a new area code, whether through an overlay or a geographic split “is initially confusing, not only to customers in the affected area, but also to those who call them from outside that area”); see also Federal Numbering Decision at ¶ 21 (discussing the “societal costs of area code relief”).

<sup>20/</sup> Federal Numbering Decision at ¶ 29.

<sup>21/</sup> See id. Significantly, the FCC has stated that it is “aware of the need for improved NXX code conservation,” such as that provided by number pooling. Id. at ¶ 21.

consistent with the FCC's numbering decision.<sup>22/</sup> Therefore, the Commission should request a waiver from the FCC so that it may adopt mandatory number pooling as a means of ensuring the efficient use of existing numbering resources. The FCC has indicated it would look favorably upon such a petition, stating that it seeks "to encourage state efforts to implement innovative number pooling plans" and asking state commissions that are considering number pooling trials that fall outside of the FCC's guidelines to submit such plans to the Common Carrier Bureau.<sup>23/</sup>

Although mandatory number pooling and rate center consolidation are the best long-term solutions to the current shortage of numbering resources, they may take a while to implement, given the nature of this proceeding and the FCC's recent numbering decision. In the meantime, the Commission should consider implementing "porting on demand" as a stop-gap measure to alleviate the current shortage of CO codes. Like number pooling, porting on demand takes advantage of LNP's ability to identify and transfer numbers on an individual basis. Using porting on demand, the Commission could require an ILEC to transfer unused numbers to a CLEC that is currently unable to obtain codes at a given rate center. By requiring the transfer of unused numbers, porting on demand would make more efficient use of existing numbering resources. It would also promote competition by freeing up additional CO codes at rate centers where codes are currently being rationed. Therefore, porting on

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<sup>22/</sup> See Federal Numbering Decision at ¶ 30 (granting Illinois authority to continue a mandatory pooling trial); see also Opinion and Tentative Order Regarding the Petition for Emergency Numbering Relief Filed by Sprint Spectrum L.P., Pennsylvania Public Utility Commission Docket No. P-00961061, Petition of NPA Relief Coordinator Re: 215/610 Area Code Relief Plan at 9 (Oct. 16, 1998).

<sup>23/</sup> Federal Numbering Decision at ¶ 30.

demand is a viable short-term solution for freeing up NXXs and increasing competition in the local market.

## CONCLUSION

Allocating CO codes more efficiently will lead to increased competition in the local market. Therefore, and for all of the reasons stated above, the Commission should petition the FCC for permission to implement a mandatory number pooling system to replace the inefficient code assignment currently being used in New York. In the meantime, the Commission should consider implementing "porting on demand" as a means of alleviating the existing code shortage.

Respectfully submitted,

CABLEVISION LIGHTPATH, INC.



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November 5, 1998

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CERTIFICATE OF SERVICE

I, Paula Allen, certify that on November 5, 1998, I caused an original and fifteen (15) copies of the foregoing to be served by hand delivery on Debra Renner, Acting Secretary, New York State Public Service Commission, Three Empire State Plaza, Albany, New York 12223-1350; and one (1) copy on all parties of record via first class mail, postage prepaid.



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