

McDermott Will & Emery

Boston Brussels Chicago Düsseldorf London Los Angeles Miami Munich
New York Orange County Rome San Diego Silicon Valley Washington, D.C.

Shirley S. Fujimoto
Attorney at Law
sfujimoto@mwe.com
202.756.8282

February 1, 2007

VIA MESSENGER

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
c/o Natek, Inc., Inc.
236 Massachusetts Avenue, N.E.
Suite 110
Washington, DC 20002

FILED/ACCEPTED

FEB - 1 2007

Federal Communications Commission
Office of the Secretary

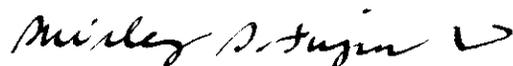
Re: *Arkansas Cable Telecommunications Ass'n, et al. v. Entergy Arkansas, Inc.*, EB Docket
No. 06-53, EB-05-MD-004; Response to ACTA's Motion to Compel

Dear Ms. Dortch:

Enclosed for filing please find the original and six copies of Entergy Arkansas, Inc.'s ("EAI") Response to Complainant Arkansas Cable Telecommunications Association's Amended Motion to Compel Production of Documents and Answers to Interrogatories in the above referenced docket. In addition, we request that you date-stamp the additional copy provided and return it with the messenger.

Thank you for your assistance in this matter. Should you have any questions, please do not hesitate to contact the undersigned.

Very truly yours,



Shirley S. Fujimoto

Counsel for Entergy Arkansas, Inc.

Enclosures

046

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

FILED/ACCEPTED

FEB - 1 2007

Federal Communications Commission
Office of the Secretary

In the Matter of)
)
Arkansas Cable Telecommunications) EB Docket No. 06-53
Association; Comcast of Arkansas, Inc.;)
Buford Communications I, L.P. d/b/a)
Alliance Communications Network;)
WEHCO Video, Inc.; and TCA Cable) EB-05-MD-004
Partners d/b/a Cox Communications,)
)
Complainants,)
)
v.)
)
Entergy Arkansas, Inc.,)
)
Respondent.)
)

To: Office of the Secretary
Attn: The Honorable Arthur I. Steinberg
Administrative Law Judge

RESPONSE TO ACTA'S MOTION TO COMPEL

Pursuant to Sections 1.243, 1.323(c) and 1.325(a)(2) of the Rules of the Federal Communications Commission ("FCC" or "Commission"), 47 C.F.R. §§ 1.243, 1.323(c) and 1.325(a)(2), Respondent Entergy Arkansas, Inc. ("EAI") hereby submits its Response to Complainant Arkansas Cable Telecommunications Association's ("ACTA") Amended Motion to Compel Production of Documents and Answers to Interrogatories ("Motion to Compel"). For the reasons set forth herein, Complainant ACTA's Motion to Compel should be denied.

0 + 6

I. PRELIMINARY STATEMENT

Complainant ACTA's Motion to Compel is apparently Phase 2 of Complainants' strategy of moving this case away from a consideration of the merits to Complainants' fabricated claims of "discovery abuse." In fact, so intent are Complainants on implementing this strategy that they are no longer willing to honor their express agreement to "first attempt to resolve all discovery issues in a cooperative informal manner" before filing a motion to compel. (See Exhibit 1 to this Response.)¹ Despite Complainants' word that they would first attempt to resolve discovery disputes in a "cooperative informal manner" before involving the Administrative Law Judge ("ALJ"), Complainants made no such attempt. Instead, the first indication from Complainants of a discovery dispute regarding EAI's responses to ACTA's second set of interrogatories and second set of document requests was the late evening filing of the Motion to Compel.² On the basis of this alone, Complainant ACTA's Motion to Compel should be dismissed.³

¹ / As the ALJ and Enforcement Bureau Staff will recall, Complainants' counsel, J.D. Thomas, hand delivered a letter to the Honorable Arthur I. Steinberg on August 22, 2006, setting out his clients' agreement with EAI regarding the procedure that the parties would honor before filing a motion to compel.

² / Complainant ACTA first filed a Motion to Compel on January 25, 2007. The following afternoon, ACTA filed its Amended Motion to Compel "to correct certain non-substantive technical errors," claiming that this Amended Motion "is identical in all substantive respects" to the Motion filed the previous day. (Letter from Sharese M. Pryor to Hon. Arthur Steinberg, dated Jan. 26, 2007.) However, rather than simply correcting "non-substantive technical errors," the Amended Motion includes an entirely new page (numbered as page 2) in which ACTA advances substantive arguments not presented in its original Motion and attempts to thereby respond in a manner not permitted by the Commission's Rules to EAI's Response to Complainants' Emergency Motion (which was filed the same day as ACTA's original Motion to Compel). See 47 C.F.R. § 1.294(b). Accordingly, all of page 2 of Complainant ACTA's Amended Motion to Compel should be stricken from the record.

³ / By contrast, and despite Complainants' decision to not abide by their prior agreement, EAI has acknowledged its responsibility under the parties' agreement and has contacted counsel for Complainants to determine if an impasse exists regarding information and documents that Complainants have wrongfully withheld from EAI. As such an impasse does exist, EAI will follow the terms of the agreement in filing its own motion to compel.

Additionally, and as stated in EAI's responses to ACTA's second set of interrogatories and second set of document requests, EAI has fully responded by providing information and documents as appropriate and properly objecting where justified. Objections were necessary with respect to ACTA's attempts to burden EAI with locating and producing massive amounts of irrelevant documents to provide information Complainants already possess. Objections were also necessary with respect to Complainant ACTA's fishing expedition regarding EAI's Broadband Over Power Line ("BPL") pilot program. Lastly, objections were necessary with respect to Complainant ACTA's poorly worded and ambiguous interrogatories and requests.

II. EAI'S RESPONSES AND ANSWERS ARE RESPONSIVE TO COMPLAINANTS' DISCOVERY REQUESTS

A. Information on EAI's Recently-Announced Trials of BPL Technology for Internal Utility Applications is Irrelevant To This Proceeding on Complainants' Safety Violations

Complainants initially alleged, without any basis in fact, that EAI commenced the safety inspections in an attempt to have Complainants pay to refurbish EAI's facilities that were damaged during the ice storms of 2000.⁴ Having failed to discover any evidence to support that line of attack, Complainant ACTA now alleges, also without any basis in fact, that EAI commenced the inspections in a massive Machiavellian plan to (1) identify the location of all of EAI's electric transformers at Complainants' expense, and (2) have Complainants rearrange their facilities on EAI's poles, in order to provide space for EAI to install BPL facilities so that Entergy may compete against Complainants in the provision of broadband, information, and data

⁴ / "On information and belief, the roots of this dispute can be traced to an ice storm in December 2000 in which Entergy's aerial plant suffered considerable damage. On information and belief, Entergy's impulse was to attempt to blame cable operators for this damage, and Entergy, without input from cable operators, retained USS in the fall of 2001 to implement this plan. ...EAI's main goal was to use the Complainants' presence on the poles to upgrade its own aerial plant, and supplement its pole-related revenue." *See Pole Attachment Complaint*, filed Feb. 18, 2005, ¶¶ 71-72.

services. As explained herein, having discovered that they could produce no facts to support their first theory of the case, Complainants now weave a theory that is equally devoid of any basis in fact, all in an effort to deflect attention from the crux of this matter: Complainants' refusal to accept responsibility for their massive safety violations on EAI's property.

As an initial matter, EAI hereby provides a brief overview of BPL in order to ensure clarity in the record. BPL is an unlicensed wireless technology that allows transmission of communications signals along electric power lines. BPL devices are regulated under Part 15 of the FCC's Rules as "unintentional radiators." *See* 47 C.F.R. §§15.5(ff) and (gg), and 15.601, *et seq.* BPL uses radiofrequency energy that is coupled to the electric power lines to form a communications pathway. There are a number of significant technical challenges in the deployment of BPL, including the avoidance of interference to licensed services, overcoming electrical noise on the power lines, and cost-effectively regenerating (amplifying) signals along long stretches of line. These challenges are further magnified by the numerous differences in the specific technical parameters and network configuration of each electric utility. While these differences generally do not make any difference in the delivery of electric utility services, they can have a significant impact on the performance of BPL technologies and how – or even whether – a utility can utilize BPL on its own electric distribution system. In other words, there is no "one-size-fits-all" BPL solution – rather, each BPL system must be specifically tailored to the network on which it is intended to operate. Finally, it is important to note that BPL is a *technology*, and not a communications service.

Complainants' Interrogatory No. 3 and Document Request No. 8 sought comprehensive and detailed information on EAI's recently-announced technical trials of using BPL technology to support EAI's internal utility applications. Interrogatory No. 3 requested as follows:

3. Please describe in detail EAI's plans to provide Broadband Over Power Line ("BPL") service. Please include in your answer what steps Entergy has already taken to upgrade, change, and/or modify its plant to accommodate the new service as well as dates of the upgrades, changes, and/or modifications.

Similarly, in Document Request No. 8 Complainant ACTA requested all documents in EAI's possession related to BPL:

8. Identify and produce any and all materials related to Entergy providing Broadband Over Power Line ("BPL") service.

Complainant ACTA argues that these inquiries are related to Issue 2(b) in the Hearing Designation Order ("HDO")(on whether Entergy's inspections and clean-up program "were initiated in response to safety and reliability problems with Complainants' facilities"); Issue 2(e) (on "whether the costing model used by Entergy is unreasonable"); Issue 2(h)(on whether the inspection and correction charges Entergy has sought to impose on Complainants "are contrary to the parties' pole attachment agreements or are otherwise unjust and unreasonable"); and Issue 6 (on whether Entergy "discriminated against Complainants and in favor of other communications companies in violation of Section 224 of the Act").

EAI was fully justified in declining to respond to these amazingly broad requests for proprietary information that has nothing to do with the issues in this proceeding. As explained herein, the information Complainant ACTA has requested is irrelevant to the issues designated in the HDO. EAI's BPL activities did not commence until after the safety inspections at issue in this proceeding were long completed and these trials have not benefited in any way from the safety inspections for which Complainants refuse to pay. Despite Complainant ACTA's strained attempts to make this information appear relevant to the HDO, Complainants are only attempting to elicit highly proprietary information on EAI's technical trials of a technology that Complainants believe could be used to compete with them at some point in the future.

As described herein, information about EAI's BPL technical trials would not be relevant to any of the issues cited by Complainant ACTA, or to any of the other issues in the HDO, as these technical trials have no relation to the inspection program of Complainants' facilities, do not affect any of the pole attachment costing models used by EAI, would not assist Complainants in determining whether the charges imposed by EAI are just and reasonable, nor would they allow a determination of whether EAI has discriminated against Complainants. At best, these inquiries are simply a "fishing expedition" by Complainant ACTA to find something – anything – to salvage Complainants' case. At worst, these requests are being raised by Complainant ACTA as a means of obtaining proprietary technical data on a technology which Complainants appear to believe will be used to compete with them in the broadband market. These requests are illustrative of how far Complainants are willing to go in showcasing their own competitive paranoia as a means of diverting attention from the serious and long-running safety violations that are at the very heart of this proceeding.

1. EAI's BPL studies commenced long after the safety inspections at issue were completed.

In its Interrogatory No. 3, Complainant ACTA requested "what steps Entergy has already taken to upgrade, change, and/or modify its plant to accommodate [BPL] as well as the dates of the upgrades, changes, and/or modifications." EAI reasonably understood this inquiry to be directed at any physical upgrades, changes, or modifications already made to EAI's plant, as emphasized by Complainant ACTA's specific request for "the dates of the upgrades, changes, and/or modifications."

As discussed below, EAI did not commence any physical upgrades, changes, and/or modifications of its plant with respect to BPL until October 2006, when installation of BPL equipment began on a test loop that runs less than one mile in length. (*See Decl. of Troy*

Castleberry, attached hereto as Exhibit 1.) Accordingly, EAI stated in its answer that its BPL program did not begin until the fourth quarter of 2006. As EAI explained in its answer, this was well after the safety inspections at issue in this proceeding had been performed and the safety violations at issue had been reported to the Complainant cable TV operators – a process that had been *completed* by January 2004, over two-and-a-half years earlier. Furthermore, these physical “upgrades, changes, and/or modifications” to EAI’s electrical facilities were not even initiated until well over a year-and-a-half after Complainants filed their formal complaint in February 2005 (and nearly two full years after Complainants first served EAI with a copy of their “draft complaint” in November 2004). This separation in time between the discovery and reporting of gross safety violations by the cable TV operators and the initiation of EAI’s BPL technical trial clearly demonstrates that EAI’s BPL program is irrelevant to the issues designated for hearing in this proceeding.

While all aspects of EAI’s BPL program are irrelevant to and beyond the scope of the issues designated for hearing in the HDO, EAI must nevertheless address Complainant ACTA’s specious and unfounded allegations regarding the timing of EAI’s pilot program. Without waiving its continuing objection to Complainant ACTA’s Interrogatory No. 3 as overly broad and requesting information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence, EAI hereby proffers the following timeline of the stages of its BPL planning process, together with certain key dates in the underlying complaint proceeding:

- **January 2004** – The USS survey is completed and all safety violations regarding cable TV pole attachments have been reported to the respective cable TV operators.
- **August 2004** –Entergy Services, Inc. first assembles an informal cross-functional team to look into BPL technology. (*See* Exhibit 1, ¶ 5.)
- **November 2004** – Complainants serve EAI with a “draft complaint.”

- **February 18, 2005** – Complainants formally file their pole attachment complaint.
- **May 2005** – The informal team on BPL first meets with Entergy Services, Inc. management to request permission to put together a formal team to look into BPL technology. (*See* Exhibit 1, ¶ 5.)
- **January 2006** –Entergy Services, Inc. management approves the planning of a pilot technical trial program for BPL and makes its first commitment of funding for BPL technical trials. (*Id.*, ¶ 6.)
- **February 2006** – The BPL Lead Team recommends and receives approval for the locations of pilot technical trials. (*Id.*, ¶ 7.)
- **March 1, 2006** – The Hearing Designation Order is adopted in the pole attachment complaint proceeding (the HDO is released on March 2, 2006).
- **May 2006** – Entergy Services Inc. issues a request for information (“RFI”) for bids on its pilot BPL program. Interested parties are requested to submit their bids by June 15, 2006. (*See* Exhibit 1, ¶ 8.)
- **September 2006** – Entergy Services, Inc. contracts with vendors to assist in the development and operation of limited trials of BPL technology. (*Id.*)
- **October 2006** – Installation of the initial test circuit begins. (*See id.*, ¶ 9.)

As this timeline illustrates, any significant planning or other steps taken by EAI with respect to BPL, which to this day is still only in a technical trial stage, occurred well after the events that form the basis for the instant proceeding. The allegations set forth in the Motion to Compel regarding the timing of EAI’s BPL program amount to nothing more than wild and unsubstantiated speculation – hardly a sufficient basis for a finding of relevance, let alone admissibility.

2. EAI’s BPL technology trials are limited in scope and focused on internal utility applications.

In its Motion to Compel, Complainant ACTA takes a number of brief comments out of context from recently-issued press reports to speculate that EAI has been secretly at work developing one or more services in competition with those provided by Complainants, and that this is at the heart of why EAI initiated safety inspections and EAI’s demands that Complainants

correct their multitude of safety violations. Complainant ACTA speculates, erroneously of course, that “Entergy is positioning itself to become a direct competitor with Arkansas cable operators in the provision of broadband services via BPL technology.” (Motion to Compel at 5.) Complainant ACTA bases this speculation on general comments by equipment vendors and others as to one of the *potential* uses of BPL technology without regard to what EAI has done or plans to do with BPL technology. However, even the press reports on which Complainant ACTA relies indicate that EAI is primarily interested in conducting technical trials of the basic BPL technology as well as the potential internal (non-commercial) applications which EAI could make of this technology to support its delivery of electric energy to the public.⁵

In one of the articles cited by Complainant ACTA and attached as Exhibit E to its Motion to Compel, it is clearly reported that EAI is conducting a technical trial of utility applications: “Entergy wants to get a sense of how the [BPL] system works in a rural setting including the ability to deliver a variety of utility applications such as AMI, remote capacitor bank controllers and other basic grid automation.” (*Former Amperion CEO joins PowerGrid*, BPL Today, January 23, 2007, appended as Exhibit E to the Motion to Compel.) An Entergy official is even quoted in this same article on the utility’s objectives in conducting these technology tests:

⁵ / In adopting technical rules for the certification and use of BPL equipment, significant information was presented to the Commission on the potential utility applications of this technology, including “a variety of more sophisticated power distribution applications, including automated outage detection and restoration confirmation, remote monitoring and operation of switches and transformers, more efficient demand-side management programs and power quality monitoring to detect faulty components before they fail. [Utility commenter] Southern [Company] offers that Access BPL offers a unique communication tool for utilities that will support functions such as remote reclosure operations of circuit breakers, power quality monitoring, automated meter reading, automatic connect and disconnect, system monitoring, and video surveillance of utility property.” *Report and Order* in ET Docket No. 04-37, 19 FCC Rcd 21265 (2004), recon. granted in part and denied in part, *Memorandum Opinion and Order*, 21 FCC Rcd 9308 (2006), appeal pending *sub nom. American Radio Relay League, Inc. v. FCC*, No. 06-1343 (D.C. Circuit).

“Our objectives in this pilot are to test the technology and its capabilities, validate the economics of deploying BPL especially in rural areas and test the ability to use this technology to locate power outages, read electric meters, provide security monitoring and do remote switching of distribution equipment,” Ed Melendreras, Entergy’s vice president of sales and marketing told the press.

(Id.)

This article goes on to describe how utilities may be able to use BPL technology to meet critical internal communications and control needs, including safety-related issues to preserve electric reliability. *(See id.)*

The second article/press release on which Complainant ACTA bases its speculation also reveals that Entergy’s limited, six-month trial is focused on how BPL technology might be used to help the utility operate more efficiently and reliably. According to this article, which appears to have been written by the editors of *BPL Today* and based on interviews with one of the technology companies supporting Entergy, “The pilot will show off what BPL can do to enable the 21st century grid.” (*Entergy Enters BPL World with Ambient Pilot*, Press Release, Dec. 14, 2006, appended as Exhibit F to the Motion to Compel.) None of the information presented by Complainant ACTA suggests or implies that Entergy is planning to offer commercial broadband services in competition with Complainants. To the contrary, Entergy’s BPL technology trial in urban Little Rock consists of a few BPL signal regenerators and related equipment along a distribution line of less than one mile. *(See Exhibit 1.)* This hardly amounts to a “roll out of service” as depicted by Complainant ACTA. *(See Motion to Compel at 9.)* Although some consumer-type technologies or applications may be tested (*e.g.*, Voice over Internet Protocol (“VoIP”) and/or video), no customer locations are being served. Furthermore, the equipment was attached to EAI’s poles without any need to rearrange or disrupt any other equipment on the poles.

The absurdity of Complainant's latest theory of its case is no more apparent than in the following statement: "Parallel with its BPL initiatives, Entergy has plans to locate a major data center in Little Rock and clearly is diversifying into the data and information business, possibly – one day – in competition with Arkansas cable operators." (Motion to Compel at 10, n.2.) (emphasis added) To the contrary and as described in the complete Press Release from Entergy – readily available on the Entergy Corporation web site had Complainants only looked – Entergy is clearly not getting into the commercial data business in competition with Complainants, but is only planning to relocate its current data facilities, operated by Science Applications International Corporation (SAIC), to another building in downtown Little Rock. As stated in this press release:

The primary functions that take place in the data center will include the operations and support of Information Technology systems, which support Entergy's corporate business functions, the operations and support of Entergy Transmission's System Control and Data Acquisition System and Entergy's System Operations Center computer systems.

(See Entergy Press Release, dated Dec. 12, 2006, and attached hereto as Exhibit 3.)

As a multi-state provider of electric services to millions of customers, Entergy deploys hundreds of thousands of devices and facilities throughout its service territory to monitor and control its electric operations, including facilities needed for interconnection of its power grid with those of neighboring utilities and third-party power generation facilities. Entergy therefore has an enormous need for Information Technology (IT) and internal communications systems to support its electric operations as well as customer service and billing. As described in the Entergy press release, the new data center will, among other things, provide back-up support to Entergy's data center in Gretna, Louisiana, which was heavily damaged by Hurricane Katrina. (See Exhibit 3.) Complainant ACTA's breathless allegation on this point – that if a utility is

developing data facilities it must be so it can “diversify[] into the data and information business” in competition with cable operators – reveals just how little Complainants understand about Entergy or electric utilities in general.

Despite Complainants’ new attempt to characterize EAI as a competitor to them in data processing, information services, and broadband delivery, it must be emphasized that EAI is primarily responsible for the construction, operation and maintenance of electric power facilities and is therefore obligated to ensure safe and reliable electric service to the public. As the Presiding Officer previously noted in narrowing the scope of Issue No. 4(c), this proceeding should not involve a “general, wholesale examination of all of Entergy’s electric operations.”⁶ Allowing examination of EAI’s BPL technical trials would take this pole attachment proceeding on a giant detour into the inner-workings of EAI’s electric operations and its associated supervisory control and data acquisition systems.

3. There is no basis for Complainant’s speculative assertion that EAI needed to “clear space” for BPL.

Complainants speculate, again without any support and contrary to basic common sense, that EAI commenced its inspection of Complainants’ facilities in December 2001 “to clear space on the poles to accommodate its BPL facilities and the fiber that is needed for a BPL rollout.” (Motion to Compel at 5.) Under Complainant’s latest theory of the case, EAI had the prescience to commence these “BPL-accommodating” inspections a full year and a half prior to the FCC even initiating an inquiry on BPL in April 2003,⁷ over two years before the FCC initiated a

⁶ / *Memorandum Opinion and Order* in EB Docket No. 06-53, FCC 06M-30, released September 25, 2006, at para. 8.

⁷ / *Inquiry Regarding Carrier Current Systems, including Broadband over Power Line Systems, Notice of Inquiry*, ET Docket No. 03-104, 18 FCC Rcd 8498 (2003).

rulemaking to propose rules for BPL in February 2004,⁸ and almost three years before the FCC actually adopted technical rules for BPL in October 2004.⁹ Moreover, Complainants would have the Presiding Officer believe that EAI commenced these inspections to support a technology that EAI did not even begin to trial on its own facilities until October 2006, almost five years after the inspections were commenced. Even aside from the bizarre timing issues in Complainant's latest twist on their case, Complainants have failed to explain how correction of their safety violations would "clear space on the poles to accommodate [EAI's] BPL facilities and the fiber that is needed for a BPL rollout," or whether EAI even needed Complainants to relocate facilities to accommodate BPL or fiber.

Despite Complainants' tiresome efforts to divert the attention away from the actual issues in this proceeding, the fact remains that tens of thousands of safety violations have been identified with respect to Complainants' attachments to EAI poles. These safety violations were a problem in 2001 and remain a problem today, regardless of what EAI or any third party may do on EAI's poles today or in the future. As demonstrated above, EAI's BPL trial program is unrelated and irrelevant to the documented existence of Complainants' extensive safety violations, and Complainants must not be allowed to engage in an unsubstantiated "fishing expedition" that would enable them to further delay making urgently-needed corrections to their cable plant. To argue otherwise is tantamount to a disavowal of Complainants' responsibility to the public and to the communities they serve to install, operate, and maintain their facilities in a

⁸ / In the Matter of Carrier Current Systems, including Broadband over Power Line Systems and Amendment of Part 15 regarding new requirements and measurement guidelines for Access Broadband over Power Line Systems, *Notice of Proposed Rulemaking*, ET Docket Nos. 03-104 and 04-37, 19 FCC Rcd 3335 (2004)

⁹ / *Report and Order* in ET Docket No. 04-37, 19 FCC Rcd 21265 (2004), recon. granted in part and denied in part, *Memorandum Opinion and Order*, 21 FCC Rcd 9308 (2006), appeal pending *sub nom.* American Radio Relay League, Inc. v. FCC, No. 06-1343 (D.C. Circuit).

safe and responsible manner. More importantly, Complainants' attempts to further delay this proceeding through irrelevant lines of inquiry are to the detriment and potential hazard to EAI, its employees, and EAI's electric customers. EAI respectfully urges the Presiding Officer to promptly cut short Complainants' efforts to move this proceeding into new lines of inquiry that bear no relation to the important issues designated in the HDO.

4. Data collected by USS on Complainants' safety violations are not relevant to EAI's BPL technical trials.

Perhaps the silliest allegation made by Complainant ACTA, and clear evidence of how desperate Complainants are to salvage their complaint, is that until USS conducted its survey of Complainants' widespread safety violations, EAI did not know where its electric transformers were located.¹⁰ Defying common sense, and without any foundation in fact, Complainant ACTA asserts that, to support its BPL trials, "Entergy needed to identify all transformer locations," and that "Entergy has largely accomplished the last of these tasks [*i.e.*, the identification of transformer locations] through the USS inspection program." (Motion to Compel at 5-6.) EAI is incredulous to hear Complainant ACTA allege that EAI did not know where its electric transformers were located until it commissioned USS to conduct safety inspections in 2001. Complainants would actually have the Presiding Officer believe that a major electric utility, in continuous operation for nearly 100 years, would not know where its own transformers are located.

To remove any doubt as to whether EAI knew where its electric plant was located, the Declaration of James Williams, attached hereto as Exhibit 2, confirms that EAI had detailed

¹⁰ / Electric transformers are used to step-up or step-down voltages between different portions of the electric system; for example, to reduce medium voltage (1,000 – 40,000 volts) on electric distribution lines to low voltage (220/110 volts) for entrance facilities into customer locations.

records of its transformer locations long before USS conducted its safety inspections, and that EAI has not needed to use, nor does it have any intent to use, any of the USS inspection data in connection with EAI's BPL technology trials. (See Exhibit 2.) Based on EAI's experience with Complainants and other cable television operators, it is not surprising that they may not know where their plant is located or its operational status. However, an electric power system is fundamentally different and could not be safely operated without a clear understanding of the location and configuration of major components on that system. Thus, it is ludicrous for Complainant ACTA to argue that the USS data is at all related to EAI's BPL technical trials, or that information on the BPL trial is at all related or relevant to the USS inspection of Complainants' widespread safety violations.

B. Complainant ACTA's Assertions Regarding EAI's Responses to Interrogatory No. 2 and Document Request No. 4 are Baseless

Complainant ACTA also voices its unhappiness with EAI's responses to Interrogatory No. 2 and Document Request No. 4. The root of this criticism, however, is found in ACTA's poorly worded questions and in its ongoing effort to burden and harass EAI rather than obtain relevant information.

1. EAI fully and accurately answered Interrogatory No. 2.

Complainant ACTA asserts that EAI's response to Interrogatory No. 2 consists of "ill-founded" objections and an "evasive" answer.¹¹ In truth, EAI actually provided more information than the poorly framed question deserved.

ACTA's Interrogatory No. 2 and EAI's response are set out in full as follows:

2. Please state whether EAI field inspectors had instructions to clear all violations on a pole or span as opposed to only addressing the plant conditions

¹¹ / ACTA continues to complain about EAI's objections to its discovery requests, even though the Complainants themselves make regular use of such objections.

that the USS inspection specifically noted when EAI field inspectors were sent to *(sic)* field with EAI violations that USS had detected.

ANSWER: Objection. EAI objects to this interrogatory on the grounds that it is overly broad, unduly burdensome, vague, unclear, and requests information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the above general and specific objections, EAI responds as follows: In addition to visual inspection of violations which EAI was responsible for correcting as reported by USS, engineering associates also reported any other conditions observed by them related to EAI's electric facilities which required correction, regardless of whether a condition was located on any specific pole, pole span or distribution circuit.

As an initial matter, ACTA's question is ambiguous regarding which "violations" it is referring to. It is far from clear whether ACTA is asking if EAI's field inspectors were instructed to examine Complainants' thousands and thousands of NESC violations as well as EAI's own violations. Complainants are responsible for their own violations, and EAI's response makes clear that these field inspectors (EAI engineering associates) are only to report conditions "related to EAI's electric facilities which required correction, regardless of whether a condition was located on any specific pole, pole span or distribution circuit."

Further, Complainant ACTA's Motion to Compel demonstrates that ACTA is not certain as to what it is inquiring. In its interrogatory, ACTA asks whether "field inspectors" had instructions to "clear all violations on a pole or span." However, in its Motion to Compel, ACTA expands this question to ask whether field "personnel" (rather than only inspectors) were instructed to "*check for* and clear all violations on the pole or span." (*See* Motion to Compel at 11.) (emphasis added) EAI can only be expected to answer what Complainant ACTA asked.

EAI truthfully answered Interrogatory No. 2 and, in fact, provided additional information beyond the scope of the question. To borrow from Complainant ACTA's Motion to Compel before it was amended, all that the interrogatory sought was whether EAI provided instructions to its field inspectors to clear all violations. (*See* Motion to Compel (as originally filed Jan. 25,

2007) at 11.) Although the simple answer to this poorly worded question was “no,” EAI provided a more detailed answer that these engineering associates were instructed to report any other condition they observed which needed to be repaired by EAI regardless of whether the condition had been reported by USS. Engineering associates were not responsible for performing the correction of violations. The work to correct any EAI violation was completed by journeymen linemen and/or apprentice linemen.

EAI clearly responded to this poorly worded interrogatory, and for ACTA to draw the “possible inference” from EAI’s response “that Entergy field personnel may have been instructed to turn a blind eye to additional problems with its plant” is beyond speculative. As Complainant ACTA is well aware, there is no proof to support such an “inference,” and it is completely contrary to EAI’s response.

2. The sole purpose of Document Request No. 4 was to annoy, oppress and subject EAI to undue burden and expense.

Complainant ACTA’s Motion to Compel EAI to produce documents responsive to Document Request No. 4 is a prime example of the Complainants’ overreaching. Complainant ACTA’s request and EAI’s response are set out in full as follows:

4. Identify and produce copies of all company organizational information including but not limited to organizational charts, a list of names, titles, contact information, and job descriptions and duties.

RESPONSE: Objection. EAI objects to this request on the grounds that it is overly broad, unduly burdensome, and requests information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the above general and specific objections, EAI responds as follows: This information has previously been obtained by counsel for Complainants through the depositions of EAI witnesses.

The scope of this request is truly breathtaking. EAI employs approximately 3,000 persons. Nonetheless, ACTA demands that EAI produce a copy of every document containing organizational charts, lists of employees, titles for such employees, every employee’s contact

information, the job description for every one of EAI's employees and, finally, the duties of these employees. If that were not bad enough, the request does not end there. Through reference to the definitions made part of Complainants' requests, ACTA is also asking for all of those same documents for EAI's "subsidiaries, affiliates and parent companies." EAI estimates that Complainant ACTA's request actually covers approximately 14,000 employees, most of whom work for entities unrelated to this litigation. This request is unreasonable in the extreme. Moreover, while ACTA does not even make a pretense as to why it seeks this information, the answer is simple: ACTA seeks this information to annoy, oppress and cause EAI undue burden and expense.

Beyond that, Complainants have already asked in their first sets of discovery for the identity of individuals, including their areas of responsibility and dates of service, with involvement in areas relating to this matter deemed important to Complainants. EAI fully responded to these numerous requests.¹² Moreover, in Complainants' lengthy depositions of EAI employees, counsel invariably asked the witness to whom he reported and who reported to him.¹³ Thus, relevant and potentially relevant information in the same vein as ACTA's Document Request No. 4 has already been provided to Complainants through other means of discovery chosen by Complainants. Where discovery of this information has already been had by a method other than that now-selected by Complainant ACTA, justice requires a protective order or denial

¹² / It is clear that had ACTA truly needed this information for the purpose of identifying potential witnesses, it would have served this request long before the *last* day to serve written discovery. Further, even had Complainant ACTA been entitled to this information, Complainants would have received it only one month before the deadline for conducting non-expert depositions. Moreover, as the ALJ knows, there were no available days left before that deadline for any additional depositions based on the schedule that had already been agreed on.

¹³ / Complainant ACTA describes this deposition testimony as "about limited organizational matters." (Motion to Compel at 12.) However, the questioning was by Complainants' counsel. No objection was ever raised by EAI; no witness was ever instructed not to answer; and no limit was ever placed on the number of questions that Complainants' counsel was allowed to ask.

of ACTA's Motion to Compel in order to protect EAI from further discovery abuse. *See* F. R. Civ. P. 26(c)(1) and (3).

III. COMPLAINANT'S HYPOCRITICAL CHARGE OF DISCOVERY ABUSE IS AN ATTEMPT TO DIVERT ATTENTION FROM THE MERITS OF THE CASE

In the Motion to Compel, Complainant ACTA continues to play out the strategy of attempting to shift attention from the merits of this case to a fabricated claim of discovery abuse.

A. Complainants' Pole Attachment Complaint is Not Well Grounded In Fact

EAI pointed out in its response to Complainants' so-called "Emergency" Motion that Complainants' pole attachment complaint was filed without an evidentiary basis and was not well grounded in fact. These shortcomings, dealing with critical issues concerning the reasonableness of EAI's engineering standards and the existence of tens of thousands of NESC violations on Complainants' cable plant, were exposed through the deposition testimony of Complainants' witnesses and critical documents produced by Complainants. Revealingly, several of these critical documents were produced by Complainants long after the date Complainants had represented that all responsive documents had already been produced.

Although fully set out in EAI's response to the Emergency Motion, the proof is that Complainants *knew* before filing their pole attachment complaint that EAI's engineering standards were just and reasonable and, in fact, Complainant Comcast's own engineering standards were at least as stringent as EAI's. The proof is also that Complainants *knew* before filing their pole attachment complaint that there were (and still are) thousands and thousands of NESC violations on their cable plant attached to EAI poles. Faced with the exposure of their baseless representations, Complainants have taken the tact of manufacturing claims of discovery abuse in a transparent attempt to prejudice EAI in the eyes of the ALJ before the formal hearing on the merits.

B. Complainants Are the Ones Guilty of Discovery Abuses

Further, as also fully set out in EAI's Response to the Emergency Motion, Complainants are hardly in a position to allege discovery abuse. EAI continues to obtain documents through subpoenas to third parties that should have been produced by Complainants but were not. These documents include critical contracts for the correction of Complainants' NESC violations, as well as engineering standards and specifications that Complainants imposed upon their contractors and subcontractors. These never-before produced documents also include numerous emails to or from Complainants that are directly relevant to the issues in this case and that are responsive to EAI's discovery requests previously directed to Complainants. In light of Complainants' own conduct, for Complainants to now accuse EAI of discovery abuse is completely unjustified.

C. EAI Continues To Make a Good Faith Effort To Respond To Each of Complainants' Discovery Requests

EAI continues to make a thorough and good faith effort to locate and produce documents responsive to Complainants' discovery requests, and EAI's previous efforts are far from insufficient. Complainants ACTA's distortions of EAI's responses aside, EAI makes no "concessions" to the contrary. As explained in EAI's response to Complainant ACTA's second set of document requests, EAI has asked persons previously thought likely to possess relevant and responsive documents to re-review their files to determine if they have additional documents. Additional persons have also been asked to review their files and produce relevant and responsive documents for review. EAI explained this in its response to ACTA's Document Request No. 1 to its second set of requests. ACTA's request and EAI's response are set out in full as follows:

1. Identify and produce all documents responsive to Complainants' First Set of Interrogatories submitted to EAI on June 20, 2006, not previously produced.

RESPONSE: Objection. EAI objects to this request on the grounds that it is overly broad, unduly burdensome, and requests information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the above general and specific objections, EAI responds as follows: This request is duplicative of previous requests to which EAI has previously responded. Responding further, EAI has requested employees who would likely possess any relevant and responsive documents relating to the issues in this proceeding to review documents which may be in their possession to determine if Complainants' First Set of Interrogatories and Document Requests should be supplemented. These employees have been asked to either confirm that they previously have produced to counsel all documentation relating to the issues or furnish counsel with any documentation not previously produced by them. This review is ongoing. Employee Brad Welch has been requested to furnish all documentation in his possession relating to the Complainants. At the time EAI was responding to Complainants' First Set of Interrogatories and Document Requests, Mr. Welch no longer held a position relating to the issues in this proceeding. EAI believed that any relevant and responsive documents which Mr. Welch possessed in his previous position had been transferred to the custody of his replacement. However, it appears that possession of various documents was retained by Mr. Welch. Additionally, at this time employees David Kelley and Lucinda Thompson have been requested to furnish additional documentation to counsel. Some or all of these documents may be duplicative of documents previously produced by EAI or USS in this proceeding. Subject to and without waiving the above general and specific objections, EAI will supplement its responses to ACTA's first set of interrogatories and document requests.

Thus, EAI clearly stated that it had asked all persons likely to possess relevant and responsive documents to re-review their files for such documents. This statement was conveniently omitted by ACTA in its Motion to Compel. Further, EAI explained that additional persons had been asked to review their files for relevant and responsive documents. This is hardly the basis for a motion to compel, much less an allegation of discovery abuse.

D. EAI is Searching For and Will Produce Documents Responsive to Complainant ACTA's Second Set of Discovery Requests That Were Not Requested in Complainants' First Set

Although Complainant ACTA attempts to score points from EAI's statement that it is searching for and will produce documents responsive to ACTA's second set of discovery, ACTA must concede that the second sets of discovery requests are broader than the first. Accordingly,

there will be documents responsive to the second set of discovery that were not responsive to the first set. Production of those documents does not constitute discovery abuse.

As set out above, Document Request No. 1 in ACTA's second set of document requests asked for documents responsive to ACTA's first set of interrogatories that had not been previously produced. EAI's response is set out and discussed above. However, Document Request No. 9 in ACTA's second set contains, for the first time, a broad catch-all request for "documents, not previously produced, related to the above-captioned proceeding." Document Requests No. 1 and No. 9 illustrate the point that ACTA's second set of document requests are broader than the first. Otherwise, Document Request No. 9 is superfluous and unnecessary. Naturally, additional documents may be responsive to Document Request No. 9 that were not responsive previously. As EAI has stated, it is continuing its good faith efforts to locate and produce relevant, responsive and non-objectionable documents. Under these circumstances, an order compelling further production is not warranted.

WHEREFORE, THE PREMISES CONSIDERED, Entergy Arkansas, Inc.

respectfully requests that Complainant ACTA's Motion to Compel Production of Documents and Answers to Interrogatories be denied and that the Administrative Law Judge grant EAI all other appropriate relief consistent with the views expressed herein.

Respectfully submitted,



Shirley S. Fujimoto
Jeffrey L. Sheldon
David D. Rines
McDERMOTT WILL & EMERY LLP
600 Thirteenth Street, N.W.
Washington, D.C. 20005-3096
T: 202.756.8000
F: 202.756.8087

Gordon S. Rather, Jr.
Stephen R. Lancaster
Michelle M. Kaemmerling
WRIGHT, LINDSEY & JENNINGS LLP
200 West Capitol Avenue, Suite 2300
Little Rock, AR 72201-3699
T: 501.371.0808
F: 501.376.9442

Wm. Webster Darling
Janan Honeysuckle
Entergy Services, Inc.
425 West Capitol Avenue
27th Floor
Little Rock, AR 72201
T: 501.377.5838
F: 501.377.5814

Attorneys for Entergy Arkansas, Inc.

Dated: February 1, 2007

CERTIFICATE OF SERVICE

I, David D. Rines, do hereby certify that on this 1~~st~~ day of February 2007, a single copy (unless otherwise noted) of the foregoing "Response to ACTA's Motion to Compel" was delivered to the following by the method indicated:

Marlene H. Dortch (hand delivery) (**ORIGINAL PLUS 6 COPIES**)
Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-A325
Washington, D.C. 20554

Hon. Arthur I. Steinberg (overnight delivery, fax, e-mail)
Administrative Law Judge
Office of the Administrative Law Judge
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554
Fax: (202) 418-0195

John Davidson Thomas (hand-delivery, e-mail)
Paul Werner, III
Sharese M. Pryor
Hogan & Hartson LLP
Columbia Square
555 13th Street, N.W.
Washington, D.C. 20004

Alex Starr (overnight delivery, e-mail)
Lisa Saks
Michael Engel
Federal Communications Commission
Enforcement Bureau
Market Dispute Resolutions Division
445 12th Street, S.W.
Washington, DC 20554

Best Copy and Printing, Inc. (U.S. Mail)
Federal Communications Commission
Room CY-B402
445 12th Street, S.W.
Washington, D.C. 20554

Federal Energy Regulatory Commission (U.S. Mail)
888 First Street, N.E.
Washington, D.C. 20426

Arkansas Public Service Commission (U.S. Mail)
1000 Center Street
Little Rock, AR 72201



David D. Rines

EXHIBIT 1

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)	
)	
Arkansas Cable Telecommunications)	EB Docket No. 06-53
Association; Comcast of Arkansas, Inc.;)	
Buford Communications I, L.P. d/b/a)	
Alliance Communications Network;)	
WEHCO Video, Inc.; and TCA Cable)	EB-05-MD-004
Partners d/b/a Cox Communications)	
)	
<i>Complainants</i>)	
)	
v.)	
)	
Entergy Arkansas, Inc.)	
)	
<i>Respondent.</i>)	
)	

DECLARATION OF TROY CASTLEBERRY

I, TROY CASTLEBERRY, do hereby declare:

1. I am over eighteen years of age and competent to give testimony in this matter.
2. I am a Market Program Developer for Entergy Services, Inc.
3. I have read the allegations and arguments in complainants' Amended Motion to Compel relating to Broadband Over Power Lines ("BPL").
4. I affirmatively state that the allegations of the Motion to the effect that the safety inspections of CATV plant conditions were initiated by Entergy Arkansas, Inc. ("EAI") for the purpose of making space on EAI's poles for BPL equipment, locating transformers for purposes of BPL deployment, or competing with any of the CATV operators by providing service using BPL equipment are totally unfounded.

5. In May, 2005, I was named Project Co-manager to study BPL technology for the Entergy system. Prior to this, I organized an informal cross-functional team at Entergy that came together in August 2004 to monitor developments in BPL.
6. In January, 2006, management approval was received to go forward with a pilot program to test BPL technology and capabilities for utility applications.
7. In February, 2006, recommendations and decisions were made to locate two of three test programs of BPL in or near Little Rock, Arkansas. One test was to be conducted in an urban area of Little Rock, Arkansas and the other in a rural area of EAI's electrical distribution system. These areas were chosen for the pilot primarily due to their proximity to existing communications backhaul facilities. In selecting these locations, no engineering assessment was made as to equipment located on these lines so that Entergy would be able to evaluate the viability of BPL technologies on a typical (*i.e.*, random) Entergy electric circuit.
8. In May 2006, Entergy Services, Inc. issued a "Request for Information" ("RFI") to solicit proposals for equipment purchases and technical assistance in developing Entergy's pilot BPL program, with bids due by June 15, 2006. After reviewing the proposals, Entergy contracted with vendors to assist with the pilot in September 2006.
9. The pilot program located in Little Rock, Arkansas did not begin until October 2006 with the installation of a small test circuit, consisting of a few signal regenerators and related equipment, along a stretch of distribution line of less than one mile. This activity constituted the first "upgrade, change, and/or modification" of EAI's physical plant for purposes of installing BPL equipment.

10. Entergy's primary objective for this pilot program is to identify ways to use BPL technology to improve Entergy's core utility services of providing safe and reliable electric service. The pilot program will test the ability to use BPL technology to read electric meters remotely, locate power outages, and perform remote switching of electrical distribution equipment in an effort to reduce operating costs and increase reliability of Entergy's distribution system.

11. Entergy's interest in and testing of BPL technology for these utility applications did not take place until well after the safety inspections had been performed by USS and had nothing whatsoever to do with why the safety inspections were initiated by EAI.

12. I never had any involvement or input in the decision to engage USS to perform safety inspections or for any other service for purposes of BPL or otherwise.

13. Nor have I ever been involved with or given input as to any scope of work to be performed by USS relating to safety inspections or any other service.

14. None of the data collected by USS during the safety inspections has been used in connection with Entergy's BPL activities to-date, nor is there any plan or expectation that such data will be used or useful to any further BPL activities.

15. Although totally unrelated to the safety inspections conducted by USS, I have requested USS to provide me with nonproprietary updates on a BPL deployment at another utility with which USS has some familiarity. Other than that, I have never requested any information from USS for purposes relating to BPL or otherwise. Nor have I made any requests for USS to perform any type of service relating in any way to BPL, I also have never directed anyone to make any such request, nor am I aware of anyone else involved with the BPL pilot making any such a request of USS.

16. The press releases attached by complainants to the Amended Motion to Compel as Exhibits E and F were not approved by Entergy prior or subsequent to release and overstate Entergy's BPL objective and capabilities.

I declare under penalty of perjury of the laws of the United States that the foregoing Declaration is true and correct.



Signed: Troy Castleberry

Dated: 1-31-07

EXHIBIT 2

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)	
)	
Arkansas Cable Telecommunications Association; Comcast of Arkansas, Inc.;)	EB Docket No. 06-53
Buford Communications I, L.P. d/b/a)	
Alliance Communications Network;)	
WEHCO Video, Inc.; and TCA Cable)	EB-05-MD-004
Partners d/b/a Cox Communications)	
)	
<i>Complainants</i>)	
)	
v.)	
)	
Entergy Arkansas, Inc.)	
)	
<i>Respondent.</i>)	
)	

DECLARATION OF JAMES DEAN WILLIAMS

I, JAMES DEAN WILLIAMS, do hereby declare:

1. I am over eighteen years of age and competent to give testimony in this matter.
2. I was the Lead Distribution Operations Coordinator for Entergy Arkansas, Inc. ("EAI") from January, 2000, through June, 2002, primarily responsible for directing and managing EAI's Automated Mapping and Facilities Management System ("AM/FM System").
3. I was the Lead Distribution Operations Coordinator for EAI from June, 2002, through June, 2006, primarily responsible for Distribution Resource Management
4. I currently serve as the Manager of the Distribution Operations Center for EAI.
5. In these capacities I have become very familiar with EAI's AM/FM System.

6. The AM/FM System is a computerized land based mapping system which shows the location of EAI's electrical distribution facilities and includes other details about the facilities. The AM/FM System became operational at EAI in 1998, and has been continuously updated since that time as EAI adds or removes equipment from its electric system. In the decades prior to the AM/FM System becoming operational, EAI continuously maintained records of device locations on paper land based maps, with further details about the devices in separate files or facilities management databases.

7. The AM/FM System contains the location of each operational electrical device within EAI's distribution system from the substation to the customer transformer. These devices include equipment such as substation breakers, poles, conductors, transformers, switches, and reclosers. The identification of such equipment and its location is critical to the safe and efficient operation of EAI's electric system.

8. Each transformer is given an individual distribution location number within the AM/FM System which identifies the exact location of each transformer, the type and size of the transformer, and the date the transformer was installed within EAI's distribution system. Even prior to installation of the AM/FM System, EAI identified each transformer by a distribution location number so that its location could be identified on EAI's paper land-based maps and in other records.

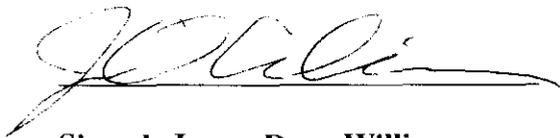
9. I also am familiar with the use of global positioning system ("GPS") which was utilized by USS in the safety inspections of CATV cable plant. The GPS information they gathered was not considered useful to, and would not have been compatible with, the existing data previously captured in the AM/FM System.

10. Consequently, EAI does not have any need for nor has EAI made use of GPS coordinates obtained as a result of safety inspections to locate electrical facilities within EAI's distribution system or otherwise.

11. Furthermore, EAI does not need the GPS coordinates obtained through the safety inspections since EAI already knows, in addition to other information, the exact location for each operational device within EAI's distribution system including transformers by way of distribution location numbers.

12. EAI has, therefore, derived no benefit from the GPS coordinates obtained by USS during the safety inspections for purposes of locating transformers or other equipment for mapping purposes, installing facilities related to Broadband Over Power Lines, or otherwise.

I declare under penalty of perjury of the laws of the United States that the foregoing Declaration is true and correct.



Signed: James Dean Williams

Dated: 1/31/07

EXHIBIT 3



Print Page | News Room | Return

December 12, 2006
For Immediate Release

Entergy, SAIC to Locate New Data Center in Downtown Little Rock

Soon the long-vacant former Little Rock Municipal Library building in downtown Little Rock will be buzzing with high-tech activity. The 76,000 square-foot structure at 700 Louisiana Street will serve as one of two primary data centers for the entire four-state Entergy system.

This will be an Entergy facility, but most of the people working there will be employees of SAIC, Entergy's technology services provider.

The establishment of new data center operations in Little Rock will result in about 100 new professional jobs in the city. The old library building will be renovated to house approximately 20 employees engaged in the actual support of data center operations. Data Center support staff not working at the data center itself will work out of other Little Rock locations, including the Metropolitan National Bank Tower, where SAIC currently has offices occupying two floors.

Entergy has relied primarily on a single data center in Gretna, La., which is just across the Mississippi River from New Orleans. The center was damaged by Hurricane Katrina, but is back to normal operations now with beefed-up back-up in Little Rock.

Prior to the establishment of the new data center, some 40 SAIC employees worked in Little Rock providing technical support in the areas of telecommunications, business application support (such as accounting systems), desktop computer support, and other functions.

About 100 positions were assigned to Little Rock to perform the functions noted above, as well as data center operations functions. As of today, SAIC has filled about 70 of those positions. So, currently there are 110 SAIC employees in Little Rock, and another 30 will be hired by next summer. All 140 are considered to be crucial in the ongoing process of disaster recovery and business continuity.

Annual payroll for the approximately 100 new jobs that will be in Little Rock supporting the data center is estimated at \$8 million.

The data center represents a capital investment of approximately \$41 million by Entergy in Little Rock. Extensive renovations will begin in December 2006, and the center is scheduled to be operational by the third quarter of 2007. The changes to the exterior of the building will include a new wall around the courtyard at the north end of the property, but the rest of the facade will remain mostly as is. Most of the renovation work will be done inside the building.

The new data center is in line with Entergy's extensive post-hurricane long-range strategic planning, which

concluded that the company's corporate business functions would be transitioning to a new organizational configuration. The new configuration will include several primary offices in locations throughout Entergy's service territory, in addition to the corporate headquarters in the Entergy Building in New Orleans. This organizational structure provides considerable flexibility to meet whatever challenges the company might face while maintaining business continuity.

The structural changes to the old library building are scheduled to be complete by June 2007, followed by installation throughout the summer of servers, monitoring equipment, cabling, mainframes, switches, hubs, security equipment, and other equipment.

In addition to the permanent jobs that will come with the data center, there will be many temporary construction and equipment installation jobs created as the facility is renovated and customized. Robert E. Lamb, an architecture and construction management firm specializing in high-tech facilities, will manage the renovation.

"This is going to be a state-of-the-art facility," said Wayne Alphonso, Entergy director in charge of the project. "The reliability of the whole Entergy operation depends heavily on the reliability of its data centers, so it's very important that this is done right."

"The old library is an ideal location. Its size, structure and availability fit perfectly into our strategy and provide Entergy with an opportunity to perform the renovations and have the system operational before the peak of next hurricane season," explained Alphonso.

Within the data center will be enough disk and tape data storage space to hold the equivalent of 1.1 billion books. The facility will have more than 20 miles of data communications wires with another six miles of fiber optic cabling.

Entergy owns a massive communications network that includes more than 2,000 miles of fiber-optic lines mounted on electricity transmission towers. The Little Rock data center will serve as the hub of that network, capable of processing 10 gigabits of data per second. That's the equivalent of 16,000 household broadband connections.

The primary functions that take place in the data center will include the operations and support of Information Technology systems, which support Entergy's corporate business functions, the operations and support of Entergy Transmission's System Control and Data Acquisition System and Entergy's System Operations Center computer systems.

Entergy is considering a similar facility in Jackson, Miss., that would be operational in 2008.

Entergy Corporation is an integrated energy company engaged primarily in electric power production and retail distribution operations. Entergy owns and operates power plants with approximately 30,000 megawatts of electric generating capacity, and it is the second-largest nuclear generator in the United States. Entergy delivers electricity to 2.7 million utility customers in Arkansas, Louisiana, Mississippi and Texas. Entergy has annual revenues of more than \$10 billion and approximately 14,000 employees.

A leading systems, solutions and technical services company, Science Applications International Corporation (SAIC) offers a broad range of expertise in defense transformation efforts, intelligence, homeland security, logistics and product support, health and life sciences, space and earth sciences and global commercial services. Founded by J. Robert Beyster, Ph.D., and a small group of scientists in 1969, SAIC is now a Fortune

500@ company, with more than 43,000 employees worldwide.

-- 30 --

Entergy's online address is www.entergy.com

SAIC's online address is www.saic.com

Privacy Policy | Legal Information
©1998-2007 Entergy Corporation, All Rights Reserved.

The Entergy name and logo are registered service marks of Entergy Corporation and may not be used without the express, written consent of Entergy Corporation.