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Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
 Washington, D.C. 20554

Federal Communications Commission  
 Office of the Secretary

In the Matter of	)	EB Docket No. 07-197
	)	
Kurtis J. Kintzel, Keanan Kintzel, and all	)	File No. EB-06-IH-5037
Entities by which they do business before the	)	
Federal Communications Commission	)	FRN: 0007179054
	)	
Resellers of Telecommunications Services	)	NAL/Acct. No. 200732080029

To: Richard L. Sippel  
 Chief Administrative Law Judge

**ENFORCEMENT BUREAU'S MOTION TO DISMISS THE  
 KINTZELS, ET AL.'S, SERIATIM INFORMAL REQUESTS**

1. On October 30, October 31 and November 4, 2007, Kurtis J. Kintzel, Keanan Kintzel, and all entities by which they do business ("Kintzels"), directed to the Secretary of the Federal Communications Commission a series of letters making "informal requests" to file additional pleadings in response to the Petition to Intervene as a Party of the National Association of State Utility Consumer Advocates ("NASUCA"). The Enforcement Bureau hereby requests that the Presiding Judge dismiss these seriatim requests as procedurally defective. In support whereof, the following is shown.

2. On October 10, 2007, NASUCA filed its Petition to Intervene as a Party (the "Petition") in the above-captioned proceeding. By order entered that same day, the Presiding Administrative Law Judge set a date by which the Kintzels and the Bureau could file any opposition and/or comments to the Petition.<sup>1</sup> Pursuant to that order, the

<sup>1</sup> *Kurtis J. Kintzel, et al.*, Order, FCC 07M-39 (ALJ, released October 11, 2007).

at 6

Kintzels filed their opposition on October 16, 2007 and NASUCA filed its reply on October 29, 2007.

3. Section 1.45 of the Commission's rules allows the party who has filed a motion to file a reply to an opposition. 47 C.F.R. § 1.45(c). It does not, however, permit any further pleadings. Thus, a party opposing a motion gets one "bite at the apple," thus guaranteeing closure.

4. The pleading cycle associated with the Petition was closed once NASUCA filed its reply. Anything the Kintzels knew or should have known at the time they filed their opposition should have been included in that opposition. Absent extraordinary circumstances (which have not been alleged or demonstrated to exist here), the Kintzels should not be permitted to interpose repeatedly and in piecemeal fashion additional tidbits of information which they belatedly believe the Presiding Judge ought to consider.<sup>2</sup>

5. Moreover, the Kintzels' reliance on Section 1.41 of the Commission's rules is misplaced. That rule section, which relates to "[i]nformal requests for Commission action,"<sup>3</sup> does not apply "where formal procedures are required under the provisions of this chapter." 47 C.F.R. § 1.41. Hearing cases are among those in which formal procedures are contemplated. *See* 47 C.F.R. § 1.201, *et seq.*

6. Finally, in addition to being procedurally improper, the Kintzels' seriatim informal requests for relief are simply disruptive to the hearing process. Once a pleading

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<sup>2</sup> The Bureau takes no position at this time on the substance of the various informal requests.

<sup>3</sup> The Petition is directed to the Presiding Judge, not the Commission. It is not for the Commission to determine whether the Kintzels should be permitted to file additional pleadings in connection with the Petition.

cycle is closed, a party should not be permitted to file a new letter or pleading every time a new idea comes to mind.

7. Based on the foregoing, the Bureau respectfully requests that the Presiding Judge dismiss as procedurally defective the Kintzels' seriatim Informal Requests for permission to file additional pleadings in connection with NASUCA's Petition to Intervene as Party.

Respectfully submitted,  
Kris Anne Monteith  
Chief, Enforcement Bureau

A handwritten signature in black ink, appearing to read "Michele Levy Berlove". The signature is written in a cursive, flowing style.

Michele Levy Berlove  
Attorney  
Investigations and Hearings Division

Federal Communications Commission  
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(202) 418-1420  
November 7, 2007

**CERTIFICATE OF SERVICE**

Rebecca Lockhart, a Paralegal Specialist in the Enforcement Bureau's Investigations and Hearings Division, certifies that she has, on this 7th day of November, 2007, sent by first class United States mail copies of the foregoing **Enforcement Bureau's Motion to Dismiss the Kintzels, et al.'s Seriatim Informal Requests to:**

Catherine Park, Esq.  
2300 M Street, NW, Suite 800  
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Counsel for Kurtis J. Kintzel, Keanan Kintzel, Business Options, Inc., Buzz Telecom Corporation, US Bell, Inc., Link Technologies and Avatar Enterprises

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Counsel for NASUCA

A copy of the foregoing was also served via hand-delivery to:

Administrative Law Judge Richard L. Sippel  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Room 1-C861  
Washington, D.C. 20054

  
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Rebecca Lockhart