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President

March 13, 2006

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Honorable Jaclyn A. Brillling
Secretary
State of New York
Public Service Commission
Three Empire State Plaza
Albany, New York 12223

*Re: CASE 06-M-0043 – Proceeding on Motion
of the Commission to Examine Issues
Related to the Deployment of Broadband
over Power Line Technologies*

Dear Secretary Brillling:

The New York State Telecommunications Association, Inc. (NYSTA) respectfully submits this letter in lieu of comments in the above-referenced proceeding.

In its Order inviting Comments, the Commission seeks input with regards to: the current status of Broadband over Powerlines (BPL) technology; safety and reliability issues raised by BPL; business models and/or arrangements for deploying BPL; and the appropriate regulatory framework for BPL.¹ NYSTA respectfully submits these comments with respect to issues regarding the regulatory framework issues raised in the BPL Notice.

BPL represents a new and innovative technology in the provision of broadband services, including all services that are possible with broadband technology, including voice services.

EX-OFFICIO

HARLEY M. RUPPERT
Newport Tel. Co.

¹ *Order Initiating Proceeding and Inviting Comments*, Proceeding on Motion of the Commission to Examine Issues Related to the Deployment of Broadband over Powerline Technologies, Case 06-M-0043 (Issued and Effective January 25, 2006). (“*BPL Notice*”) at Page 3

Not only will deployment of BPL provide another modality in the competitive broadband arena, it is likely to also represent an additional option available to consumers for their telecommunications needs, thus increasing choices consumers currently have regarding their telecommunications services.

The Commission's Notice seeking Comment on BPL specifically asks for comment on the appropriate business and regulatory framework that should apply to BPL. In it, the Commission's tentative conclusion is that incumbent electric utilities should not function as the BPL provider, but rather the utility should lease or sell access rights for its system to business entities to bring BPL to the Public.²

Regardless of the eventual regulatory and business model adopted by the Commission and the regulated electric utilities in bringing BPL to market, NYSTA asserts that regulatory mechanisms will need to be adopted to ensure that electric utility customers do not subsidize electric utility provision of BPL services (or access to its systems to allow others to provide BPL services). This will help ensure parity between intermodal competitors in the provision of broadband and telecommunications services made possible by the provision of BPL.

It is in this regard that the Commission must adopt policies similar to those applicable to telephone corporations who provide adjunct services through subsidiaries or provide service and facilities to others for eventual purchase by end-users. Policies addressing cost imputation, price imputation, cost allocations, and other items such as imputation of royalties have been established by this Commission and are applicable to telecommunications carriers when they diversify. Similar policies should be adopted by this Commission in its regulation of electric utility provision of BPL or assets made available to others in the provision of BPL³

Respectfully submitted,

A handwritten signature in black ink, reading "Robert R. Puckett". The signature is written in a cursive style with a large, prominent initial "R".

Robert R. Puckett
President

² *id* at P. 8

³ Not only should such policies be adopted in the provision of BPL based services, NYSTA asserts that such policies should be applicable to electric utility provision of any telecommunications services. For example, it is NYSTA's understanding that the City of Jamestown Board of Public Utilities leases fiber optic facilities to third parties. However, a recent Order issued by the Commission in Case 04-E-1485 which adopted a joint proposal relative to a rate increase sought by the Jamestown BPU is unclear and does not appear to address any issues or rate impacts applicable to BPU electric rates as a result of its provision of telecommunications services to others.