



Office of the People's Counsel District of Columbia



1133 15th Street, NW • Suite 500 • Washington, DC 20005-2710 202.727.3071 • FAX 202.727.1014 • TTY/TDD 202.727.2876

December 12, 2006

Elizabeth A. Noël

People's Counsel

Dorothy Wideman Commission Secretary Public Service Commission of the District of Columbia 1333 H Street, NW Washington, D.C. 20005

> Formal Case No. 962 NOAFR 06-17

RE: Errata

Dear Ms. Wideman:

Enclosed please find an original and eleven (11) copies of errata for the Office of the People's Counsel's (the Office) December 8, 2006 Notice of Agency Fund Requirements (Notice) in Formal Case No. 962. The errata comprise the entire revised Notice and Proposed Order, as well as a revised Table of Contents, all of which inadvertently identified four objections. Also enclosed are the Agency Administrator's responses to the three objections to the Notice, which were inadvertently omitted with the filing .

The Office apologizes for any confusion these errors may have caused.

Sincerely,

Elizabeth A. Noël, Esq. People's Counsel for

the District of Columbia

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Enclosures

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- A. People's Counsel's Notice of Agency Fund Requirements with proposed Commission order, cover letter, and certificate of service (December 8, 2006)
- B. Agency Administrator's memorandum to the People's Counsel dated December 6, 2006, transmitting the official record in the case, including:
 - 1. Letters to Verizon Washington, D.C.; US Tel; InfoHighway; AT&T Communications of Washington DC; ATX Telecommunications Services; Focal Communications; BTI; One Communications; Cypress Communications Operating Company; Global Crossing Telemanagement; Lightwave Communications; Looking Glass Networks; Verizon Access Transmission Services; MetTel; NOS Communications; Paetec Communications; Quantum Shift Communications; Qwest Communications Corporation; Starpower Communications; Teleport Communications of Washington, DC; US LEC of Virginia, LLC; Verizon Avenue; and XO Communications Services dated October 25, 2006, transmitting the Agency Administrator's preliminary Notice of Agency Fund Requirements.
 - 2. Agency Administrator's Recommended Notice of Agency Fund Requirements dated October 25, 2006
 - 3. Agency Administrator's proposed assessment order
 - 4. Case Manager's Statement of Need for Resources dated October 24, 2006
 - 5. Contract for the Formal Case No. 962 contractor
 - 6. Letter of objection from Phillip S. Shapiro, Esq. on behalf of AT&T dated October 30, 2006
 - 7. Letter of objection from Alexander Gertsburg, Esq. on behalf of Andre Temnorod dated October 31, 2006
 - 8. Letter of objection from David Aronow on behalf of MetTel dated November 1, 2006

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- 9. Response from the Agency Administrator to Alexander Gertsburg, Esq. dated November 27, 2006
- 10. Response from the Agency Administrator to Phillip S. Shapiro, Esq. of AT&T dated December 1, 2006
- 11. Response from the Agency Administrator to David Aronow MetTel dated November 1, 2006

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OFFICE OF THE PEOPLE'S COUNSEL OF THE DISTRICT OF COLUMBIA 1133 15th STREET, N.W., SUITE 500, WASHINGTON, D.C. 20005-2710

NOTICE OF AGENCY FUND REQUIREMENTS

December 8, 2006

Formal Case No. 962

IN THE MATTER OF THE IMPLEMENTATION OF THE DISTRICT OF COLUMBIA TELECOMMUNICATIONS COMPETITION ACT OF 1996 AND IMPLEMENTATION OF THE TELECOMMUNICATIONS ACT OF 1996

PROCEDURAL HISTORY

On October 12, 2006, the Public Service Commission ("PSC" or "Commission") issued Order No. 14086 seeking input from the parties on issues remaining in Formal Case No. 962 after the release of PSC Order No. 14023 in Telephone Arbitration Case ("TAC") 19.

Pursuant to Order No. 14086, initial comments are due on October 27, and reply comments are due on November 13, 2006.

ASSESSMENT HISTORY

On October 25, 2006, the Agency Administrator for the Office of the People's Counsel ("OPC" or "Office") submitted the preliminary Notice of Agency Fund Requirements ("preliminary Notice") to Verizon Washington, D.C. ("Verizon") and the 22 other telecommunications carriers providing local service for "reasonable and necessary expenditures required to fully carry out" OPC's statutory responsibilities "arising from any investigation, valuation, revaluation, or proceeding of any nature by the Commission." The relevant alternative providers to which the preliminary Notice was sent were as follows:

- 1. 1-800 Reconnex, Inc. d/b/a US Tel
- 2. A.R.C. Networks d/b/a InfoHighway
- 3. AT&T Communications of Washington DC, LLC
- 4. ATX Licensing, Inc. d/b/a ATX Telecommunications Services

¹ D.C. Code, 2000 Ed. § 34-912(a)(2).

² Id at § 34-912(a)(1).

- 5. Broadwing Communications, LLC f/k/a Focal Communications
- 6. Business Telecom, Inc. d/b/a BTI
- 7. CTC Communications Corp. d/b/a One Communications
- 8. Cypress Communications Operating Company
- 9. Global Crossing Telemanagement, Inc.
- 10. Lightwave Communications
- 11. Looking Glass Networks, Inc.
- 12. MCImetro Access Transmission Services, LLC d/b/a Verizon Access Transmission Services
- 13. Metropolitan Telecommunications of DC d/b/a/ MetTel
- 14. NOS Communications
- 15. Paetec Communications, Inc.
- 16. Quantum Shift Communications, Inc.
- 17. Qwest Communications Corporation
- 18. Starpower Communications, LLC
- 19. Teleport Communications of Washington, DC, Inc.
- 20 US LEC of Virginia, LLC
- 21. VIC-RMTS-DC d/b/a Verizon Avenue
- 22. XO Communications Services, Inc.

In an October 30 letter AT&T objected to the preliminary Notice, questioning the equal allocation to all the parties. In an October 31 letter, the attorney for Andre Temnorod asserted his client, who, according to the PSC's website is the Chief Operating Officer for Business Telecom, Inc., does not have and has never had any connection to Business Telecom. Finally, in a November 1 letter, MetTel concurred with AT&T and questioned the allocation.

On November 27, and December 1, OPC's Agency Administrator responded in writing to each of the objecting parties. Those responses acknowledged the objections, but finding them without merit. Further, the Agency Administrator advised that the objections as well as the Office's responses would be included in the official record.

ESTIMATED AGENCY FUND REQUIREMENTS

The Office of the People's Counsel ("OPC" or "Office") has statutory authority to assess Verizon Washington, D.C. ("Verizon") and the 21 other telecommunications carriers providing local service for "reasonable and necessary expenditures required to fully carry out" its statutory responsibilities "arising from any investigation, valuation,

³ D.C. Code, 2000 Ed. § 34-912(a)(2).

revaluation, or proceeding of any nature by the Commission."⁴ The relevant alternative providers are as follows:

- 1. 1-800 Reconnex, Inc. d/b/a US Tel
- 2. A.R.C. Networks d/b/a InfoHighway
- 3. AT& T Communications of Washington DC, LLC
- 4. ATX Licensing, Inc. d/b/a ATX Telecommunications Services
- 5. Broadwing Communications, LLC f/k/a Focal Communications
- 6. Business Telecom, Inc. d/b/a BTI
- 7. CTC Communications Corp. d/b/a One Communications
- 8. Cypress Communications Operating Company
- 9. Global Crossing Telemanagement, Inc.
- 10. Lightwave Communications
- 11. Looking Glass Networks, Inc.
- 12. MCImetro Access Transmission Services, LLC d/b/a Verizon Access Transmission Services
- 13. Metropolitan Telecommunications of DC d/b/a/ MetTel
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- 15. Paetec Communications, Inc.
- 16. Quantum Shift Communications, Inc.
- 17. Qwest Communications Corporation
- 18. Starpower Communications, LLC
- 19. Teleport Communications of Washington, DC, Inc.
- 20 US LEC of Virginia, LLC
- 21. VIC-RMTS-DC d/b/a Verizon Avenue
- 22. XO Communications Services, Inc.

OPC's participation in Formal Case No. 962 is consistent with its mandate to represent utility consumers.⁵ Pursuant to D.C. Code, 2001 Ed. §§ 34-804 and 34-2002(k)(8) and (m) and D.C. Mun. Regs. tit. 15, ch. 20. In light of the facts and circumstances detailed herein, the Office has determined the expenses incurred by it to be \$8,100.18 at this juncture of the proceeding, necessitating a deposit in this amount to the Office of the People's Counsel's Agency Fund. The Commission is respectfully requested to issue an order (a proposed draft of which is attached) directing Verizon; US Tel; InfoHighway; AT& T Communications of Washington DC; ATX Telecommunications Services; Focal Communications; One Communications; Cypress Communications Operating Company; Global Crossing Telemanagement; Lightwave Communications; Looking Glass Networks; Verizon Access Transmission Services; MetTel; NOS Communications; Paetec Communications; Quantum Shift

⁴ Id. at § 34-912(a)(1).

⁵ Id. at § 34-804.

Communications; Qwest Communications Corporation; Starpower Communications; Teleport Communications of Washington, DC; US LEC of Virginia, LLC; Verizon Avenue; and XO Communications Services to deposit on or before December 22, 2006, the sum of \$368.196 each for a total of \$8,100.18 in the Treasury of the District of Columbia, to the credit of the account, the "Office of the People's Counsel's Agency Fund."

SUPPORTING DATA

To discharge its statutory responsibilities in this matter effectively, the Office determined it required the technical services of J.W. Wilson & Associates.

J.W. Wilson & Associates (Allen G. Buckalew).

Allen G. Buckalew is a telecommunications economist specializing in public utility regulation with particular interest in rate structure, cost of service, antitrust and industrial organization. Since joining J.W. Wilson & Associates in 1980, his research and analytic activities have included the areas of jurisdictional separations, license contracts, rate structure, rate base and competition in the telecommunications industry. Mr. Buckalew has previously provided services to the Office in a number of proceedings, including TT84-5, 87-5 and 91-3 and Formal Case Nos. 777, 850, 916, 920, 922 and 990.

The contract ceiling for J.W. Wilson & Associates is \$8,100 with out-of-pocket expenses to be specifically accounted. The contractor will be compensated at the hourly rate of \$200 for Allen G. Buckalew, the primary contractor. The total number of employees expected to be used is one.

MILLAGE LIMITS

The \$8,100.19 composite deposit required from Verizon and the 21 alternative telecommunications carriers providing local service is reasonable and well within the prescribed legal limits of D.C. Code, 2001 Ed. §§ 34-912 and 3-2002(m), which limits the Office's Agency Fund requests in matters relating to the regulation of local exchange carriers to a total of \$150,000. OPC's assessment of Verizon and the aforementioned alternative carriers is consistent with this statutory requirement. Accordingly, OPC's present Agency Fund Requirements of \$8,100.18 do not exceed the statutory limit.

CONCLUSION

The determined Agency Fund Requirements of \$8,100.18 are necessary and appropriate to the mission of the Office, consistent with expenditures in similar cases,

⁶ In the preliminary Notice, the requested sum was \$352.17. Because of Business Telecom's objection that the named president on the PSC website had no relationship to the company, OPC has eliminated it as one of the parties, thereby necessitating the change in the amount to be paid by the parties.

and reasonable in light of the complexity of the issues in this case. The contractor selection has been made in a manner that promotes both cost savings and efficiency while assuring effectiveness.

WHEREFORE: The Office of the People's Counsel has determined the estimated expenses that will be reasonably and necessarily incurred by it to discharge properly its statutory obligation in this proceeding, and hereby gives NOTICE OF OFFICE OF THE PEOPLE'S COUNSEL AGENCY FUND REQUIREMENTS to the Public Service Commission of the District of Columbia as indicated herein.

By this Notice, the Office of the People's Counsel requests the Commission to direct Verizon Washington, D.C.; US Tel; InfoHighway; AT& T Communications of Washington DC; ATX Telecommunications Services; Focal Communications; BTI; One Communications; Cypress Communications Operating Company; Global Crossing Telemanagement; Lightwave Communications; Looking Glass Networks; Verizon Access Transmission Services; MetTel; NOS Communications; Paetec Communications; Quantum Shift Communications; Qwest Communications Corporation; Starpower Communications; Teleport Communications of Washington, DC; US LEC of Virginia, LLC; Verizon Avenue; and XO Communications Services to deposit \$352.17 each for a the total of \$8,100 into the Treasury of the District of Columbia, to the credit of the fiduciary fund account known as "Office of the People's Counsel Agency Fund" not later than five days following the Commission's order or ten days from the date this Notice is received by the Commission, whichever is first.

A TRUE COPY:

Elizabeth A. Noël, Esq. PEOPLE'S COUNSEL, D.C.

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PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA 1333 H STREET, N.W., WASHINGTON, D.C. 20005

ORDER

December ___, 2006

FORMAL CASE NO. 962, IN THE MATTER OF THE IMPLEMENTATION OF THE DISTRICT OF COLUMBIA TELECOMMUNICATIONS COMPETITION ACT OF 1996 AND IMPLEMENTATION OF THE TELECOMMUNICATIONS ACT OF 1996, Order No. ____

I. Introduction

On December 8, 2006, the Office of the People's Counsel "(OPC" or "Office") filed a Notice of Agency Fund Requirements in Formal Case No. 962. In its filing, the Office notified the Public Service Commission ("Commission") of the need for an order directing Verizon Washington, D.C. ("Verizon"); US Tel; InfoHighway; AT& T Communications of Washington DC; ATX Telecommunications Services; Focal Communications; One Communications; Cypress Communications Operating Company; Global Crossing Telemanagement; Lightwave Communications; Looking Glass Networks; Verizon Access Transmission Services; MetTel; NOS Communications; Paetec Communications; Quantum Shift Communications; Qwest Communications Corporation; Starpower Communications; Teleport Communications of Washington, DC; US LEC of Virginia, LLC; Verizon Avenue; and XO Communications Services to deposit \$368.19 each, the sum total of \$8,100.18, into the Treasury of the District of Columbia, to the credit of the fiduciary account known as the "Office of the People's Counsel Agency Fund" to meet expenses incurred by OPC in carrying out its statutory mandate to represent ratepayers in Formal Case No. 962.

The record reflects that on October 19, 2006, the Agency Administrator for the Office submitted a Preliminary Notice of Agency Fund Requirements ("preliminary Notice") to the 23 telecommunications carriers providing local service in the District, as well as copies of the Case Manager's written statement of need and the contract for the contractor retained by the Office in this proceeding.

In an October 25 letter AT&T objected to the preliminary Notice, questioning the equal allocation to all the parties. In an October 31 letter, the attorney for Andre Temnorod asserted his client, who, according to the PSC's website is the Chief Operating Officer for Business Telecom, Inc., does not have and has never had any connection to Business Telecom. Finally, in a November 1 letter, MetTel concurred with AT&T and questioned the allocation.

On December 1, OPC's Agency Administrator responded in writing to each of the objecting parties. Those responses acknowledged the objections, but finding them without merit. Further, the Agency Administrator advised that the objections as well as the Office's responses would be included in the official record.

II. Discussion

To represent the ratepayers in Formal Case No. 962 before the Commission, OPC retained the technical services of J.W. Wilson & Associates.

Allen G. Buckalew is a telecommunications economist specializing in public utility regulation with particular interest in rate structure, cost of service, antitrust and industrial organization. Since joining J.W. Wilson & Associates in 1980, his research and analytic activities have included the areas of jurisdictional separations, license contracts, rate structure, rate base and competition in the telecommunications industry. Mr. Buckalew has previously provided services to the Office in a number of proceedings, including TT84-5, 87-5 and 91-3 and Formal Case Nos. 777, 850, 916, 920, 922 and 990.

The contract for J.W. Wilson & Associates is \$8,100 with out-of-pocket expenses to be specifically accounted. The contractor will be compensated at the hourly rate of \$200 for Allen G. Buckalew, the primary contractor.

III. Applicable Law

The Commission has reviewed the information submitted by the Office of the People's Counsel in support of this Notice. The Commission finds the Office as required by D.C. Mun. Regs. § 1405.2 has:

- (1) Provided the total amount sought from the utility and the alternative telecommunications carriers and the date on which payment is requested to be made by the utility;
 - (2) Identified the contractor hired;
 - (3) Described the qualifications of the contractor;
 - (4) Described the work to be performed by the contractor;
- (5) Identified the number of persons to be employed by the contractor on the contract;
- (6) Provided the rate of compensation on an hourly basis for each person employed by the contractor; and
 - (7) Provided the ceiling for the contract.

The Commission is also required to determine whether the Office of the People's Counsel's Notice is consistent with relevant statutory authority. The statute provides that with respect to the regulation of local exchange carriers, OPC "shall expend no more than \$150,000 for the proceeding..." OPC's Agency Fund Requirements of \$8,100.18 do not exceed the statutory limit of \$150,000.

IV. Conclusion

In conclusion, the Commission finds this Notice of Agency Fund Requirements is:

- (1) consistent with the statutory authority of and rules issued by the Office;
- (2) supported by findings, which findings are sustained by substantial evidence in the record submitted with the Notice; and
- (3) is within the limitations enumerated in D.C. Code, 2001 Ed. §§ 34-912(a)(3) and 34-2002(m).

THEREFORE, IT IS ORDERED THAT:

No later than December ___, 2006, Verizon Washington, D.C.; US Tel; InfoHighway; AT& T Communications of Washington DC; ATX Telecommunications Services; Focal Communications; One Communications; Cypress Communications Operating Company; Global Crossing Telemanagement; Lightwave Communications; Looking Glass Networks; Verizon Access Transmission Services; MetTel; NOS Communications; Paetec Communications; Quantum Shift Communications; Qwest Communications Corporation; Starpower Communications; Teleport Communications of Washington, DC; US LEC of Virginia, LLC; Verizon Avenue; and XO Communications Services are directed to deposit \$368.19 each, the sum total of \$8,100.18, in the Treasury of the District of Columbia, to the credit of the account known as the "Office of the People's Counsel Agency Fund."

A TRUE COPY:

BY DIRECTION OF THE COMMISSION

COMMISSION SECRETARY

DOROTHY WIDEMAN

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¹ D.C. Code, 2001 Ed. § 34-2002(m).

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Office of the People's Counsel District of Columbia



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Elizabeth A. Noël People's Counsel

December 1, 2006

David Aronow President Met-Tel 44 Wall Street 6th Floor New York, NY 10005

Re: Office of the People's Counsel's Notices of Agency Fund Requirements in Formal Case Nos. 988 and 962

Dear Mr. Aronow:

The Office of the People's Counsel ("OPC" or "Office") received your letter of opposition dated November 1, 2006, regarding its Notices of Agency Fund Requirements in Formal Case Nos. 988 and 962.

Title 15 of the D.C. Municipal Regulations sets forth the criteria upon which opposition can be based. Section 2002.4 provides "[t]he affected utility shall have the burden of demonstrating the validity of any opposition raised," and Met-Tel fails to satisfy any of the criteria established. Met-Tel does not object to the rate of compensation of the contractor¹ or claim the work performed by the contractor is unreasonably connected to the proceeding.²

Rather, Met-Tel mistakenly believes the individual amounts requested from each party (\$8,100) to equal the total requested amount of \$18,400 exceed the statutory millage limit.³ Met-Tel believes the millage limit in question is based upon its jurisdictional valuation. The limitation based on millage limits applies to *public utilities*.⁴

¹ 15 DCMR § 2002.2(a)

² Id. at 2002.2(b)

³ Id. at § 2002.2 and D.C. Code, 2001 Ed. § 34-2002(m).

⁴ See D.C. Code, 2001 Ed. § 34-912 (a)(3).

In matters such as this the law, D.C. Code, 2001 Ed. § 34-2002(m), limits OPC's total expenditures to \$150,000.

Your written opposition to the Formal Case Nos. 988 and 962 Notices and OPC's response will be included in the People's Counsel's submission to the Public Service Commission. No further action can or will be taken until the Commission issues an order in this matter.

Should you have any questions or need additional information, please contact OPC attorney Brenda Pennington at 202.727.3071.

Derryl Stewart King

Agency Administrator

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Office of the People's Counsel District of Columbia



1133 15th Street, NW • Suite 500 • Washington, DC 20005-2710 202.727.3071 • FAX 202.727.1014 • TTY/TDD 202.727.2876

Elizabeth A. Noël
People's Counsel

November 27, 2006

Alexander E. Gertsburg, Esq. 1228 Euclid Avenue Suite 390 Cleveland, OH 44115-1800

Re: Office of the People's Counsel's Notices of Agency Fund Requirements in Formal Case Nos. 988 and 962

Dear Mr. Gertsburg:

As you know, on October 19 and 25, 2006, the Office of the People's Counsel ("OPC" or "Office") transmitted recommended Notices of Agency Fund Requirements in Formal Case Nos. 988 and 962, respectively, to your client Andre Temnorod. This action is the first step the Office must take to have the D.C. Public Service Commission order an affected utility to fund the Office 's consulting costs in procedures before the Commission.¹

With respect to your letter dated October 31, 2006, OPC will remove Mr. Temnorod's name and address from our records for Business Telecom, Inc. Please note, however, the Office obtained his name and address from the District of Columbia Public Service Commission's records for Business Telecom, Inc.

I apologize for any inconvenience. Please contact OPC attorney Brenda Pennington at 202.727.3071 should you have any further questions.

Derryl Stewart King

Agency Administrator

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¹ D.C. Mun. Regs. tit. 15, § 2001.5 (1991).



Latice of the People's Counsel District of Columbia



1133 15th Street, NW • Suite 500 • Washington, DC 20005-2710 202.727.3071 • FAX 202.727.1014 • TTY/TDD 202.727.2876

Elizabeth A. Noël People's Counsel

December 1, 2006

Philip S. Shapiro, Esq. Senior Attorney AT&T 15105 Wetherburn Drive Centreville, VA 20120

Re: Office of the People's Counsel's Notices of Agency Fund Requirements in Formal Case Nos. 988 and 962

Dear Mr. Shapiro:

The Office of the People's Counsel ("OPC" or "Office") received your letters of opposition dated October 25 and 30, 2006, on behalf of AT&T Communications of Washington DC and Teleport Communications of Washington DC (collectively "AT&T, et. al."), regarding OPC's Notices of Agency Fund Requirements in Formal Case Nos. 988 and 962.

AT&T, et. al. does not raise any valid objection to OPC's requests for Agency funding in the above-captioned dockets, therefore, OPC will file its Notice of Agency Funding Requirements with the Public Service Commission of the District of Columbia.

As stated in Title 15, Code of D.C. Municipal Regulations, Section 2002.4, "[t]he affected utility shall have the burden of demonstrating the validity of any opposition raised." AT&T, et. al. neither objects to the rate of compensation of the contractor¹ nor claim the work performed by the contractor is unreasonably connected to the proceeding.² AT&T, et. al does not claim that the individual amounts requested from each party to equal the total amounts requested, \$8,100 and \$18,400, exceed the statutory millage limit.³ Rather, AT&T, et. al. does not agree with OPC's division of the requested total into equal amounts for each affected party to the proceedings.

¹ 15 DCMR § 2002.2(a).

² Id. at § 2002.2(b).

³ Id. at § 2002.2(c).

The Office notes the statutory limitation based on millage limits applies to *public utilities*.⁴

Your written opposition to the Formal Case Nos. 988 and 962 Notices and OPC's response will be included in the People's Counsel's submission to the Public Service Commission. No further action can or will be taken until the Commission issues an order in this matter.

Should you have any questions or need additional information, please contact OPC attorney Brenda Pennington at 202.727.3071.

Derryl Stewart King

Agency Administrator

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⁴ See D.C. Code, 2001 Ed. § 34-912 (a)(3).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on this 12th day of December 2006, an original and eleven (11) copies of **errata for the Office of the People's Counsel's March 8, 2006 Notice of Agency Fund Requirements in Formal Case No. 962**. The revised Notice was hand-delivered to to Dorothy Wideman, Commission Secretary, District of Columbia Public Service Commission, 1333 H Street, N.W., Washington, D.C. 20005, and that a copy was also served to the parties named on the attached list.

Elizabeth A. Noël

Lizabeth A. Noël

People's Counsel

SERVICE LIST OFFICE OF THE PEOPLE'S COUNSEL'S NOAFR 06-17

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