ORIGINAL

WILLKIE FARR & GALLAGHER

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Tel: 202 328 8000
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December 11, 2001

Blanca S. Biayo
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Dear Secretary Biayo:

On December 11, 2001, Telergy, Inc. filed an application to discontinue service with the Federal Communications Commission pursuant to Section 214 of the Communications Act. *See* 47 U.S.C. § 214. Pursuant to Section 63.71(a) of the Commission's rules, Telergy hereby notifies you of this action and submits a copy of its application. *See* 47 C.F.R. § 63.71(a). In addition, Telergy has notified the governor of your state in compliance with the Commission's regulations.

Sincerely,

Angie Kronenberg

Angie Kronenberg

Enclosures

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Washington DC [illegible]
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December 11, 2001

Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Dear Ms. Salas:

Enclosed for filing is the original and five copies of an application requesting discontinuance authority pursuant to Section 63.71 of the FCC's rules. If you have any questions regarding this matter, please contact me.

Sincerely,

Angie Kronenberg

Enclosures

cc: Jon Minkoff, Common Carrier Bureau
Stanley Scheiner, Office of General Counsel

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

In the Matter of	)	
	)	
Application of Telergy Network Services, Inc., Telergy Metro, LLC, and Telergy Central, LLC	)	
	)	
	)	CC Docket No. __________
For Authority Pursuant to Section 214 of the Communications Act of 1934, as Amended to Discontinue the Provision of Domestic and International Telecommunications Services	)	

SECTION 63.71 APPLICATION OF TELERGY

Telergy Network Services, Inc., Telergy Metro, LLC, and Telergy Central, LLC (collectively, the "Telergy carriers"), pursuant to Section 214(a) of the Communications Act of 1934, as amended, 47 U.S.C. Section § 214(a), and Sections 63.71 and 63.19 of the Federal Communications Commission's ("Commission" or "FCC") rules, 47 C.F.R. § 63.71, § 63.19, request authority to discontinue domestic and international telecommunications service offerings to their remaining customers, including but not limited to local, long distance, international, switched access, DSL, private line, and Internet access services. The Telergy carriers make the following statements in support of the instant application:

1. The Telergy carriers are non-dominant, facilities-based service providers. The carriers have facilities located in the State of New York and New Jersey and are authorized to provide all forms of domestic interstate and international telecommunications services. The Telergy carriers also are authorized to provide local and long distance intrastate services on

either a resale or facilities-based basis in 46 states. The Telergy carriers' principal place of business is One Telergy Parkway, East Syracuse, New York 13057.

2. Due to financial and other constraints caused by current telecommunications market conditions, the Telergy carriers decided in September to focus on the business market and to discontinue all residential customer offerings. Accordingly, Telergy Network Services, Inc. filed a discontinuance application with the FCC on September 26, 2001 requesting authority to discontinue services to all residential customers by November 1, 2001. On November 14, 2001, Telergy Network Services, Inc. refiled this application with the FCC due to the fact that the application could not be located by the FCC. A copy of that application is attached as Exhibit A.[1] Telergy Network Services, Inc. respectfully requests that the Commission place that application on Public Notice as soon as possible, but no later than the Public Notice of the instant application.

3. Pursuant to Section 63.71 of the Commission's rules, and the New York Public Service Commission's Mass Migration Guidelines, Telergy Network Services, Inc. notified its residential customers of the discontinuance of its residential services. In addition, Telergy Network Services, Inc. published the required notice in the local newspapers of those areas affected. Most of its residential customers have already been transitioned to other carriers, and Telergy Network Services, Inc. continues to work towards transitioning the remaining residential customers. As of December 1, 2001, Telergy Network Services, Inc. had approximately 100 remaining active residential accounts, mostly travel card customers, all of which are in the State of New York.

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1 FCC approval is required for discontinuance of interstate services. Residential service offerings include interstate access; therefore, Telergy Network Services, Inc. filed a discontinuance application with the FCC.

4 Despite efforts to save the Telergy carriers by targeting only the business market, the financial condition of the Telergy carriers continued to deteriorate. Thus, on October 26, 2001, the Telergy carriers and their parent companies, Telergy Operating, Inc and Telergy, Inc., filed for protection pursuant to Chapter 11 of Title 11 of the United States Code in the U S Bankruptcy Court for the Northern District of New York (the "Bankruptcy Court"). The Telergy carriers and other Telergy, Inc. affiliates seeking Chapter 11 protection have continued in the possession of their respective properties and the management of their respective businesses as debtors-in-possession, pursuant to Sections 1107 and 1108 of the Bankruptcy Code. The cases are being jointly administered for procedural purposes only under case number 01-66379.[2] The Telergy carriers obtained an order from the Bankruptcy Court providing for the company's interim use of cash collateral and immediately began seeking debtor-in-possession financing from third party sources which would permit them to operate for the foreseeable future under Chapter 11.

5. Despite intensive negotiations and discussions with potential lenders, the Telergy carriers were unable to secure postpetition financing to fund operations of their businesses. As a result, the Telergy carriers determined that it is in the best interests of their estates, creditors, and all parties in interest to make application to the Bankruptcy Court to convert these Chapter 11 cases to cases under Chapter 7 of the Bankruptcy Code. On December 10, 2001, the Bankruptcy Court orally granted Telergy carriers' motion to convert their Chapter 11 cases to a Chapter 7 liquidation on a provisional basis pending a hearing and entry of a final written order scheduled for Friday, December 14, 2001.

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[2] By their attorneys, the Telergy entities holding FCC international and domestic Section 214 authorizations that experienced a *pro forma* involuntary transfer of control and/or assignment as a result of the Chapter 11 filings, notified the FCC by letter of those facts on October 31, 2001.

6 Several times during the negotiation process for their debtor-in-possession financing, counsel for the Telergy carriers provided updates to FCC staff concerning the companies' progress in obtaining additional financing. During the negotiation process, all indications were that it was likely that new investors were going to provide debtor-in-possession financing to the companies. However, on December 10, 2001 the Telergy carriers learned that they would not reach an agreement with new investors. Consequently, the companies have concluded that they must liquidate their assets and, therefore, cease providing services to their remaining customers. The Telergy carriers believe that they will be able to continue service for 30 days to allow for the transition of customers; however, they may be able to continue providing service for a period longer than 30 days, depending on the rulings by the Bankruptcy Court.

7. Until such time that the Telergy carriers knew that a new financing was not going to be realized, it was impracticable to begin the process of discontinuing service to all their customers because the investors would only provide financing if the companies were operating with customers. However, upon learning that the companies would not obtain the needed financing, the companies immediately began implementing the procedures to comply with the FCC's discontinuance requirements, including filing the instant application. Moreover, the Telergy carriers are providing immediate notice to their customers concerning the discontinuance of their services pursuant to Section 63.71 of the FCC's rules.[3] They began contacting all customers by telephone and/or discontinuance notices as of December 11, 2001.

8. The Telergy carriers presently have approximately 4500 business accounts that will be affected by the instant round of discontinuances, not including those residential

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3 The Telergy carriers' notification letter to their customers is attached to this application as Exhibit B.

customers in the State of New York that Telergy Network Services, Inc. currently is transitioning.[4] Most of these business end user customers are located in the State of New York.[5] The Telergy carriers also have approximately 6 carrier customers that purchase finished service, 19 carrier and 12 non-carrier dark fiber customers, and 4 non-carrier private line customers. While most of the customers that will be affected by the Telergy carriers' discontinuance of service are located in the State of New York, the carriers also provide some long distance services on a resale basis in Connecticut, Florida, Illinois, Massachusetts, New Jersey, Ohio, Pennsylvania, Rhode Island, and Texas. The carriers have begun transitioning all of these customers to other carriers as well.

9. The Telergy carriers are committed to assisting all of their customers in transitioning them to new carriers. Accordingly, the Telergy carriers are providing their customers a contact phone number with information concerning the discontinuance and the need to elect another local and/or long distance service provider, as well as verbal communications for customers that fail to elect a service provider within the designated time frame. If on-net customers fail to elect a new carrier upon their discontinuance of services, the Telergy carriers will apply a "soft dial tone" to their lines, which will notify any affected customer attempting to make a call to call Telergy immediately, while still enabling customers to dial 911. In addition, the Telergy carriers are negotiating with Verizon and other competitive carriers to accept any on-net customers that fail to elect a new carrier upon their discontinuance of services to avoid interruption of local service for these customers.

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4 As mentioned, all residential customers were notified of their discontinuance in September.

5 For the Commission's convenience, the Mass Migration Plan the Telergy carriers are filing with the New York Public Service Commission is attached as Exhibit C.

10. The Telergy carriers respectfully request FCC authority to discontinue both domestic and international services by January 11, 2001.[6] Simultaneously with this filing, the Telergy carriers are sending the necessary notifications and the instant application with the state public utility commissions and their respective governors where customers are being discontinued. The Telergy carriers also are sending this application to the Secretary of Defense, to the attention of the Special Assistant for Telecommunications.

11. For the foregoing reasons, the FCC should approve the Telergy carriers' application to discontinue domestic and international telecommunications services by January 11, 2001.

Respectfully submitted,

Angie Kronenberg

Thomas Jones
Angie Kronenberg
Willkie Farr & Gallagher
Three Lafayette Centre
1155 21st Street, N.W.
Suite 600
Washington, D.C. 20036
(202) 328-8000 (tel.)
(202) 887-8979 (fax)

Theresa Atkins
Co-General Counsel
Telergy Network Services, Inc.
One Telergy Parkway
East Syracuse, New York 13057
(315) 362-2882 (tel.)
(315) 362-2635 (fax)

Dated: December 11, 2001

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6 To the extent necessary, the Telergy carriers request that the Commission waive the 60-day customer notice requirement found in Section 63.19 of the FCC's rules for their international services.

Exhibit A
Residential Discontinuance Application
November 13, 2001

Telergy

RECEIVED
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TELERGY, INC.
LEGAL DEPARTMENT

NOV 16 3 00 PM '01

November 13, 2001

Federal Communications Commission
ATTN: Magalie Roman Salas, Secretary
9300 East Hampton Drive
Capitol Heights, MD 20743

Via FedEx Overnight

Re: Telergy Network Services, Inc.
Application to Discontinue Domestic and
International Residential Telecommunications Services

Dear Ms. Salas:

Enclosed please find an original and four copies of Telergy's above referenced Application for filing.

Please be advised that this application was previously sent to the Secretary's office on September 25, 2001 for filing. After repeated conversations with several staff members, the application was deemed lost and is being refiled via this filing.

Please date stamp the duplicate copy of this letter and return to me in the enclosed envelope.

Should you have any questions or need anything further, please do not hesitate to contact me at bunnellj@telergy.net or (315) 362-2684.

Very truly yours,

Jennifer L. Bunnell

Jennifer L. Bunnell
Manager, Regulatory Compliance

Enc.

CC: Theresa Atkins, Esq.

RECEIVED
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One Telergy Parkway • East Syracuse, New York 13057
315.362.2000 • 877.TELERGY • (315.835.3749) • FAX: 315 362.5399
www.telergy.net
Power in Telecom

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

In the Matter of Application of Telergy Network Services, Inc. Pursuant to Section 214(a) of the Communications Act of 1934, 27 U.S.C. Section 214(a), and Section 63.71 of the Federal Communications Commission's rules, 47 C.F.R. Section 63.71, to discontinue its Domestic and International Residential Telecommunications Services	)	CC Docket No.

Telergy Network Services, Inc. ("Telergy" or the "Company"), pursuant to Section 214(a) of the Communications Act of 1934, 27 U.S.C. Section 214(a), and Section 63.71 of the Federal Communications Commission's rules, 47 C.F.R. Section 63.71, requests authority to discontinue its residential customer domestic and international telecommunications service offerings, including but not limited to local, long distance, international, switched access, other access, DSL, private line and Internet access services, and makes the following statements in support of its application:

1. Telergy is facilities-based New York corporation with facilities located throughout New York State and is authorized to provide all forms of domestic interstate and international telecommunications services. Telergy is also authorized to provide local and long distance intrastate services on either a resale or facilities-based basis within 46 continental states.

2. Due to financial and other constraints caused by current telecommunications market conditions, Telergy has been forced to downsize its workforce and operations and reassess its business plan. As a result, Telergy has made the necessary business decision to

refocus on the business market and discontinue all residential customer offerings effective November 1, 2001.

3. To date, the residential market has failed to be a profitable product line for Telergy and the Company can no longer afford to support this customer base.

4. Telergy presently has 1,059 residential customers that will be affected, all of which reside in New York and Rhode Island. Specifically in New York, Telergy has 723 resale residential customers and 295 on-net residential customers. In Rhode Island, Telergy has 41 resale residential customers and no (0) on-net residential customers.

5. Simultaneously with this filing, Telergy has filed the necessary notifications with the New York Public Service Commission ("NYPSC") and Rhode Island Public Utility Commission ("RIPUC"), together with the applicable tariff filings. Telergy has also filed the necessary tariff filings with the Federal Communications Commission this date ("Commission").

6. Presently, several competitive carriers are authorized in New York and Rhode Island are providing the services Telergy proposes to discontinue to its New York and Rhode Island residential customers, including but not limited to Verizon, Choice One, AT&T, Sprint, Worldcom and others. In New York, the Commission has already granted Verizon, Inc. Section 271 authority to provide long distance services, evidencing the Commission's position that the local market has been open to competition in New York State.

7. To provide residential customers with the greatest opportunity to make informed choices and ensure a seamless transition to the customers' selected carriers with no service interruption, Telergy has developed a notice and transfer plan consistent with the NYPSC's Mass Migration Guidelines (the "Plan"), a copy of which is attached hereto as Exhibit A.

8. The Plan provides for repetitive written notices to residential customers, a toll-free number with information concerning the discontinuance and the need to elect another local and long distance service provider, and verbal communications for customers that fail to elect a service provider within the designated time frame. Under the NYPSC's Mass Migration Guidelines, resale customers that fail to elect a new carrier by November 1, 2001 will have their local services continued by Verizon, Inc., the default carrier. If on-net customers fail to elect a new carrier by November 1st, Telergy will apply a "soft dial tone" to their line, which will provide an announcement to call Telergy immediately, while still enabling the customer to dial 911. Telergy is or will be in the process of negotiating with Verizon and other competitive carriers to accept any on-net customers that fail to elect a new carrier by November 15, 2001 to avoid interruption of local service for these customers.

9. For the foregoing reasons, the Telergy's application to discontinue residential telecommunications services should be approved. Further, Telergy requests that this application be deemed automatically granted on the 31st day after the release date of the Commission's notice pursuant to Section 63.71(c) of the Commission's rules.

Respectfully submitted,

Theresa Atkins
Assistant General Counsel
Telergy Network Services, Inc.
One Telergy Parkway
East Syracuse, New York 13057
(315) 362-2882 (telephone)
(315) 362-2635 (facsimile)

EXHIBIT A

Telergy Plan Description

EXHIBIT A

The Plan below complies with the New York Public Service Commission's Mass Migration Guidelines and addresses the consumer aspects of Telergy's withdrawal from the residential market in New York State as a local, intralata and interlata provider. Telergy will notify the Commission of any changes to this Plan or the cutover.

Local competition, including in the residential market, has been determined to be fully competitive, as demonstrated by the approval last year of Bell Atlantic's (now Verizon, Inc.) 271 application seeking entry into the long distance market.

The cutover coordinator is Grazia De Palo (315) 362-2000. Approximately 1,018 customers will be affected. Specifically, 723 resale and 295 on-net customers will be affected. Because of the high percentage of Verizon resale customers, no transfer of NXX or thousand number blocks is required. No transfer of assets or debts is implicated. To date, Telergy has been unsuccessful in its attempts to arrange for an acquiring carrier.

Telergy's Plan provides for a competitor neutral transition process. Telergy will set up a toll-free number equipped with a Voice Response Unit to handle customer inquiries. When a customer calls the toll-free number they will reach a recorded Customer Information Line that advises the Customer of the need to select a new local, intralata and interlata carrier and refer the customer to the Public Service Commission for a complete list or further information about particular carriers. Customers will be notified of the toll-free number via a special notification letter described below.

Due to the Company's existing financial constraints caused by market and other conditions, the transition process will be handled over a 30-day period, with an additional 30-day period to work with customers that fail to elect a new carrier by November 1, 2001. During this process, Customers will receive two (2) written notices and customers that remain after November 1, 2001 will receive a verbal notice, as well as a telephone call from a Telergy representative, minimizing the potential for interruption of customer service. Telergy will completely withdraw from the residential market ten (10) days after the last contact with the last customer, but in no event later than December 1, 2001.

Simultaneously with the filing of this Plan, each Telergy residential customer will receive an individual notification letter, separate from their regular monthly telephone bill, advising of Telergy's withdrawal from the residential market. See sample letter attached. The notice instructs them that they must choose a new carrier as Telergy will no longer be providing residential service in New York State. The letter also directs customers to call the toll-free number referenced in the letter to obtain the contact information they will need to choose another carrier. A second letter will be mailed to customers along with their October bill. The October bills will be mailed between October 5th and October 15th. The second letter will remind customers that if they have not yet selected a new carrier they need to do so.

If customers remain that have not chosen a new carrier by November 1, 2001, Telergy will, consistent with the Mass Migration Guidelines, migrate the resale customers to Verizon, Inc. On-net customers that remain will be provided a "soft dial tone" that will provide a recording directing the customer to contact Telergy immediately and retain their 911 capability. Telergy will also attempt to contact each remaining on-net customer directly. On contact, a Telergy representative will walk them through the competitor-neutral transition process. Telergy will fully withdraw from the residential market ten (10) days after the last attempted contact for the last remaining customer, but in no event later than December 1, 2001.

Telergy

Date
Customer
Address
City, State, Zip

YOU MUST CHOOSE A NEW LOCAL AND LONG DISTANCE TELEPHONE SERVICE PROVIDER BY NOVEMBER 1, 2001

Dear Customer:

We regret to inform you that as of November 1, 2001, Telergy will no longer be providing local and long distance services to residential customers. If you are a business customer with residential lines, this change will impact only your residential lines. This difficult decision is based, in part, on increased competitive and economic pressures caused by existing telecommunications market conditions as well as Telergy's need to dedicate its resources to servicing its primary market segment - business customers.

Your action is required! You must select a new local and long distance telephone provider as quickly as possible but no later than November 1, 2001 or you may lose your local and long distance telephone service.

Generally, you can find a list of most local and long distance telephone service providers in your local telephone directory. If you require assistance, please contact Telergy at 866-520-4031 for more information.

Telergy regrets any inconvenience this change may cause you. We thank you for your past business and are committed to assisting you in making a smooth transition that will avoid any interruption of service.

Sincerely,

Telergy Customer Care

One Telergy Parkway • East Syracuse, New York 13057
315.362.2000 • 877.TELERGY • (315.835.3749) • FAX: 315.362.5399
www.telergy.net

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Exhibit B
Customer Notification Letter
December 11, 2001

December 11, 2001

Customer
Address
City, State, Zip

YOU MUST CHOOSE A NEW LOCAL AND LONG DISTANCE TELEPHONE SERVICE PROVIDER IMMEDIATELY

Dear Customer:

Since October 26, 2001, Telergy Metro, LLC, Telergy Network Services, Inc., and Telergy Central, LLC have been operating under the protection of the Bankruptcy laws. During this time, the companies have sought additional funding to continue the operations of the business. However, such funding has not been made available to the companies.

We therefore regret to inform you that Telergy Metro, LLC, Telergy Network Services, Inc. and Telergy Central, LLC, located at One Telergy Parkway, East Syracuse, New York 13057, are discontinuing all their services to you, including their local and domestic and international long distance services. We are making every effort to continue providing service to you for at least 30 days from the date of this letter. However, it is possible that we could be forced to discontinue providing our services before the expiration of the 30-day period. Therefore, you must select a new service provider immediately. A list of carriers serving your area can generally be found in the front of your local telephone book.

The Federal Communications Commission will normally authorize a proposed discontinuance of service unless it is shown that customers would be unable to receive service or a reasonable substitute from another carrier or that the public convenience and necessity is otherwise adversely affected. If you wish to object, you should file your comments within 15 days after receipt of this notification. Address them to the Federal Communications Commission. Washington, D.C. 20554, referencing the § 63.71 Application of Telergy Metro, LLC, Telergy Network Services, Inc. and Telergy Central, LLC. Comments should include specific information about the impact of this proposed discontinuance upon you or your company, including any inability to acquire reasonable substitute service.

Your immediate action is required! You must select a new local and long distance telephone provider as quickly as possible.

We thank you for your past business and are committed to assisting you in making a smooth transition that will avoid any interruption of service. Should you have any questions or need assistance to transition to a new carrier, please call our Customer Information Line at (315) 362-2902.

Sincerely,

Telergy, Inc.

Exhibit C
New York PSC Mass Migration Plan
December 11, 2001

Telergy Plan Description

The Plan below complies with the New York Public Service Commission's Mass Migration Guidelines and addresses the consumer aspects of Telergy's discontinuance of telecommunications services. Telergy will notify the Commission of any changes to this Plan

The cutover coordinator is William Haddad (315) 362-2000. As of this date, Telergy has exited the residential market. Accordingly, approximately 4,504 business accounts will be affected by this discontinuance. Specifically, 2,697 resale and 1,807 on-net business accounts will be affected. Telergy has made the appropriate contacts with the number code and pooling administrator to transfer NXX and thousand block numbers previously assigned to the company. No transfer of assets or debts is implicated. To date, Telergy has been unsuccessful in its attempts to arrange for an acquiring carrier.

Telergy's Plan provides for a competitor neutral transition process. Telergy will have customer care representatives available during regular business hours to advise customers of the need to select a new local, intralata and interlata carrier and refer the customer to their telephone directory or the Public Service Commission for a complete list or further information about particular carriers. Customers will be notified of the customer care number via a special notification letter described below.

Since October 26, 2001, the Telergy operating companies have been operating under the protection of the Bankruptcy laws. During this time, the companies have sought additional funding to continue the operations of the business. However, such funding has not been made available to the companies. On December 10, 2001, the Bankruptcy Court orally granted Telergy's motion to convert its Chapter 11 case to a Chapter 7 liquidation on a provisional basis pending a hearing and entry of a final written order scheduled for Friday, December 14, 2001. Telergy will be working with customers to transition to alternate providers within the confines of the Bankruptcy proceeding consistent with the dictates of 47 U.S.C. Section 214 and the New York Public Service Commission Mass Migration Guidelines.

Simultaneously with the filing of this Plan, each Telergy residential customer will receive an individual notification letter, separate from their regular monthly telephone bill, advising of Telergy's withdrawal from the market. See sample letter attached. The notice instructs them that they must choose a new carrier as Telergy will no longer be providing service in New York State. The letter also directs customers to call the customer care number referenced in the letter to obtain the contact information they will need to choose another carrier.

If customers remain that have not chosen a new carrier by the date we are ordered to discontinue service, Telergy will, consistent with the Mass Migration Guidelines, migrate the resale customers to Verizon, Inc. On-net customers that remain will be provided a "soft dial tone" that will provide a recording directing the customer to contact Telergy or the bankruptcy trustee immediately. Customers will retain their 911 capability during the "soft dial tone" period. Telergy will completely discontinue service by a date to be set by the bankruptcy court, but in no event sooner than 30 days after the date of customer notifications.