

DORSEY, KING, GRAY, NORMENT & HOPGOOD

ATTORNEYS-AT-LAW

318 SECOND STREET

HENDERSON, KENTUCKY 42420

JOHN DORSEY (1920-1986)
FRANK N. KING, JR.
STEPHEN D. GRAY
WILLIAM B. NORMENT, JR.
J. CHRISTOPHER HOPGOOD
S. MADISON GRAY

TELEPHONE
(270) 826-3965
TELEFAX
(270) 826-6672
www.dkgnlaw.com

August 24, 2011

FEDEX

RECEIVED

AUG 26 2011

PUBLIC SERVICE
COMMISSION

Mr. Jeff DeRouen
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, KY 40602-0616

Re: Kenergy Corp.
Application for Certificate of Convenience and
Necessity – Microwave Migration Plan

Dear Mr. DeRouen:

Enclosed are the original and 10 copies of Kenergy Corp.'s Application for Certificate of Convenience and Necessity regarding a microwave migration project. In addition three (3) 11 X 17 maps of the affected substation are enclosed.

I am also enclosing 10 copies of a Petition for Confidentiality along with the sealed contract that is to be confidential.

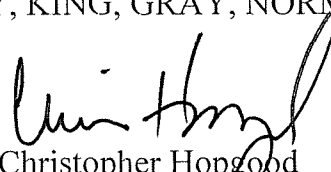
Finally, as time is of the essence regarding this project, I am enclosing 10 copies of a Motion to Expedite.

Your assistance in this matter is appreciated.

Very truly yours,

DORSEY, KING, GRAY, NORMENT & HOPGOOD

By


J. Christopher Hopgood
Attorney for Kenergy Corp.

JCH/cds
Encls.

RECEIVED

AUG 26 2011

PUBLIC SERVICE
COMMISSION

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

RECEIVED

AUG 26 2011

In the Matter of:

PUBLIC SERVICE
COMMISSION

APPLICATION OF KENERGY CORP.)
FOR CERTIFICATE OF CONVENIENCE) CASE NO. 2011-_____
AND NECESSITY)

APPLICATION

(a) Kenergy Corp. ("Kenergy") is a nonprofit electric cooperative organized under KRS Chapter 279 and is engaged in the business of distributing retail electric power to member consumers in the Kentucky counties of Daviess, Hancock, Henderson, Hopkins, McLean, Muhlenberg, Ohio, Webster, Breckinridge, Union, Crittenden, Caldwell, Lyon, and Livingston. This Application is submitted pursuant to KRS 278.020 and 807 KAR 5:001(9).

(b) The post office address of Kenergy is Post Office Box 18, Henderson, Kentucky 42419-018.

(c) Kenergy's Articles of Consolidation are on file with the Commission in Case No. 99-136.

(d) Kenergy requests that it be granted a certificate of public convenience and necessity to replace its existing microwave communication system at a net cost of \$192,000.00;

(e) Kenergy relies upon the following facts to show that the proposed new improvements will be required by public convenience or necessity. A major microwave frequency user obtained Kenergy's microwave communications frequencies through the Federal Communications Commission. While the microwave frequency user¹ does not have the right to immediately take Kenergy's microwave frequencies, the user was interested in accelerating the takeover timetable. As such, the user offered Kenergy a sum of money to begin using these frequencies by January 1, 2012.

Kenergy proposes to accept the sum from the microwave frequency user and add an additional \$192,000.00 to construct a new microwave communications system. Rural Utilities Service has approved this addition to the Construction Work Plan. (See attached Exhibit B which contains details about this plan). The necessity for the new microwave system is due to the fact that the microwave frequency user has the right to take Kenergy's frequencies in 2013 without compensation to Kenergy. Further, the system that is being replaced is to be replaced is an analog system for which replacement parts and equipment are scarce. Thus, the prudent decision is to accept the compensation in order to mitigate the cost of the new microwave frequency communication system. If Kenergy fails to act, it will be forced to replace the microwave communication system in 2013 without compensation.

¹ The proposed agreement between the microwave frequency user and Kenergy is filed with this application with a petition for confidentiality pursuant to 807 KAR 5:001(7), due to confidentiality restrictions in the agreement.

(f) Franchises are not required for the proposed construction. No permits will be required for either of these projects.

(g) Attached hereto as "Exhibit A" and "Exhibit B" are details supporting the two (2) projects proposed. See also testimony of John Newland of Kenergy attached as "Exhibit C."

(h) The location for the project is at many substations. A map of the affected Kenergy substations is attached hereto as "Exhibit D."

(i) Kenergy will expend funds from its RUS loan funds to finance this new construction. These projects necessitate increased capital expenditures by Kenergy and as a result will be a component of potential future rate increases. However, the microwave project costs are substantially lower by proceeding now as opposed to waiting until the cell phone provider has the right to trace the frequencies.

(j) The gross cost of construction is \$742,000. \$443,000 will be spent in 2011; \$179,000 in 2012 and \$120,000 in 2013. The microwave frequency user provider will provide \$550,000 in funding in 2011. The new system is not expected to increase Kenergy's operational costs as compared to the current system.

WHEREFORE Kenergy asks that the Public Service Commission of the Commonwealth of Kentucky make its order issuing a certificate of convenience and necessity authorizing the application to proceed with the microwave migration project, and the applicant further requests all proper relief.

Dated at Henderson, Kentucky, this 25th day of August, 2011.

DORSEY, KING, GRAY, NORMENT & HOPGOOD

318 Second Street

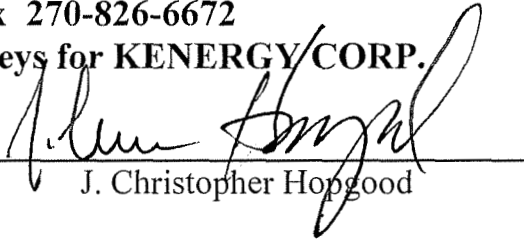
Henderson, Kentucky 42420

Telephone 270-826-3965

Telefax 270-826-6672

Attorneys for KENERGY CORP.

By

A handwritten signature in cursive script, appearing to read "J. Christopher Hopgood", is written over a horizontal line.

J. Christopher Hopgood

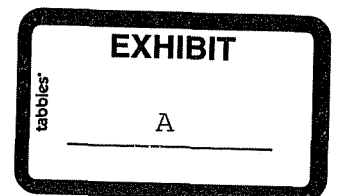
2 GHZ Microwave System Transition Plan Proposed 3 Year Work Plan & Preliminary Budget Estimate For 2011

In 2006 the Federal Communications Commission (FCC) auctioned all 2 GHz Private Microwave frequencies, in an effort by the FCC to redistribute spectrum to Cellular vendors and better utilize the existing frequencies. This was completed via an Advanced Wireless Spectrum Auction (AWS). Existing license holders, such as Kenergy, will lose their "Primary" incumbent license status, thereby becoming "Secondary" in 2013. Should the frequencies that Kenergy is currently licensed for be awarded to an auction participant, and that participant wishes to install equipment and operate on those frequencies in and around the Kenergy area of operation, Kenergy's 2GHz communication facilities must accept any harmful interference that occurs after that date while not causing any harmful interference to the new incumbent's facilities and business. The reason for the FCC's actions has been to facilitate new and emerging technologies in the cellular and computer industries.

In order to allow companies such as Kenergy time to migrate facilities away from the 2 GHz spectrum, the AWS bidders must not cause interference for Kenergy systems until the 2013 date. Any vendors who are in need of use of the frequencies in advance of 2013 are allowed to negotiate with the incumbent license holder to purchase the incumbent off of the frequencies, either through cash payments or purchase and installation of new equipment operating on other licensed frequencies. Kenergy's 2GHz licenses have already been acquired by several AWS bidders. Kenergy was successful in 2008/2009 in negotiations with one vendor and has completed a successful transition of seventeen 2GHZ microwave paths. This was accomplished by the vendor purchase and installation of new microwave radio facilities operating at the 6 GHz frequency consisting of both T1 and Ethernet capabilities.

While keeping in mind the possibility that there could be more vendor negotiations resulting in buyout and replacement of facilities, it is recognized that Kenergy must continue with an ongoing plan to minimize the impact of the 2013 deadline with reference to accepting and causing interference. Any future negotiations resulting in a buyout of any Kenergy facilities would minimize the cost of this plan. Many vendors may determine that it is more cost effective for them to wait until the 2013 date to utilize the frequencies thereby forgoing the costs necessary to migrate the incumbents such as Kenergy off the frequencies. As of August 2010, there has been a very preliminary contact from another AWS auction winner which could impact the costs identified in this plan. Of significance to this discussion is the identification of two of the backbone paths planned for migration in 2011 by the vendor as paths they are interested in. As these discussions are very preliminary, it was felt that they should remain in this plan as a Kenergy migration project until we have more certainty that the vendor is willing to purchase us off those frequencies at an acceptable value to Kenergy.

There is no doubt that Kenergy has realized great service from the analog equipment that it now seeks to replace, not only for the reasons mentioned but also because replacement parts and equipment are scarce. This equipment was costly to the Coop



when it began to be purchased in 1979, but the quality of this past purchase has been proven by its longevity.

The money required for this project is significant, as it was for the original equipment, but the resulting longevity and service desired should be taken into account.

2 GHZ Microwave System Transition Plan

Cost breakdown by year

2011	\$443,000
2012	\$179,000
2013	<u>\$120,000</u>
	\$742,000
(less)	<u>\$550,000*</u>
Net Cost	\$192,000

***Payment from cell provider to purchase 5 existing paths, while accommodating Kenegy's move to new paths.**



August 15, 2011

Mr. Sanford Novick, President & CEO
Kenergy Corporation
P.O. Box 18
Henderson, KY 42419-0018

Dear Mr. Novick,

Review of Amendment #3 to your 2010-2013 Construction Work Plan amending \$192,000 to project Code 704 for SCADA substation communication has been completed and the distribution facilities described therein are hereby approved. This approval is contingent upon the determination that no additional environmental information is required in accordance with 7 CFR Part 1794 by the Rural Utilities Service (RUS) Regional Office in Washington, D.C.

Approval for the construction of the facilities included in this Amendment is subject to the conditions outlined in all RUS CFRs and Bulletins. Particular attention should be given to 7 CFR Part 1726, Informational Publication 202-1, and regulations contained in 7 CFR Part 1700 et. seq. All construction must be in conformance with provisions of the latest edition of the National Electrical Safety Code in effect at the time of construction as well as RUS approved construction drawings.

The Amendment is being submitted to the Regional Office for their consideration of the environmental finding for this project and for their records. A copy is being retained for my records and future reference.

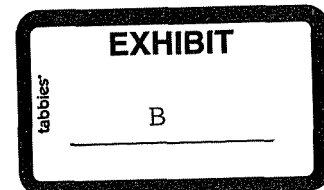
If you should have any questions regarding any of the above comments, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Aaron S. Johnson', is written over a white background.

AARON S. JOHNSON
General Field Representative
Northern Regional Division
Rural Utilities Service

c: NRD (w/encl.)



Amendment To Current Approved
Construction Work Plan

Amendment # 3

Borrower Designation Kenergy Corp - KY65

Work Plan Period 2010-2013

Change(s) Proposed: Replacement of substations communications system.

740C Code Effected: ~~500~~ 704 SCADA

Reason(s) for Change(s): (See attached) 2006 FCC auction of current frequencies mandated migration by 2013.

Method of Financing

Loan Funds X
General Funds _____
Contributions in Aid _____

Status of Borrowers Environmental Report: Replacement of equipment at substation does not require an Environmental Report.

Estimated Cost \$192,000

Engineering Support Attached Yes

Registered Engineer [Signature] 9692
(as required) (Signature) (P.E. number)

Requested By [Signature] Date 8/11/11
President, CEO

Approved By [Signature] Date 8/15/11
RUS, GFR

Subject to BER approval? Yes _____ No X

Status of Construction: Negotiating with cell providers to accommodate migration with least capital investment; some activity to begin within 60 days.

1
2
3
4
5
6
7
8
9
10
11
12

**BEFORE THE
KENTUCKY PUBLIC SERVICE COMMISSION**

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

**APPLICATION OF KENERGY CORP.)
FOR CERTIFICATE OF CONVENIENCE) CASE NO. 2011-_____
AND NECESSITY)**

TESTIMONY OF JOHN NEWLAND

Q1. Please state your name, business address and position with Kenergy.

A. John Newland, 6402 Old Corydon Road, Henderson, KY 42420. I am
Director of Engineering for Kenergy.

Q2. What is your educational background?

A. BSEE, University of Kentucky.

3. What is your work experience?

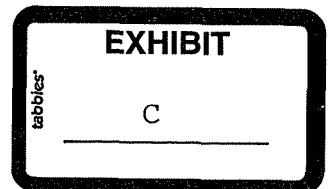
A. 38 years: 33 years of engineering management at Henderson Union Electric
Cooperative Corp. (predecessor to Kenergy Corp.) and Kenergy Corp.

Q4. Have you previously submitted testimony before the Kentucky Public
Service Commission?

A. Yes.

Q5. What is Kenergy requesting in this matter?

A. Kenergy desires a Certificate for Convenience and Necessity to approve
construction of a replacement microwave communication system.



1 Q6. Explain the request concerning the microwave communication system.

2 A. In 2006 the Federal Communications Commission (FCC) auctioned all
3 2GHz Private Microwave frequencies, in an effort by the FCC to
4 redistribute spectrum to Cellular vendors and better utilize the existing
5 frequencies. This was completed via an Advanced Wireless Spectrum
6 Auction (AWS). Existing license holders, such as Kenergy, will lose their
7 "Primary" incumbent license status, thereby becoming "Secondary" in
8 2013. Should the frequencies that Kenergy is currently licensed for be
9 awarded to an auction participant, and that participant wishes to install
10 equipment and operate on those frequencies in and around the Kenergy area
11 of operation, Kenergy's 2GHz communication facilities must accept any
12 harmful interference that occurs after that date while not causing any
13 harmful interference to the new incumbent's facilities and business. The
14 reason for the FCC's actions has been to facilitate new and emerging
15 technologies in the cellular and computer industries.

16 In order to allow companies such as Kenergy time to migrate facilities
17 away from the 2GHz spectrum, the AWS bidders must not cause
18 interference for Kenergy systems until the 2013 date. Any vendors who are
19 in need of use of the frequencies in advance of 2013 are allowed to
20 negotiate with the incumbent license holder to purchase the incumbent off
21 of the frequencies, either through cash payments or purchase and
22 installation of new equipment operating on other licensed frequencies.

1 Kenergy's 2GHz licenses have already been acquired by several AWS
2 bidders. Kenergy was successful in 2008/2009 in negotiations with one
3 vendor and has completed a successful transition of seventeen (17) 2GHz
4 microwave paths. This was accomplished by the vendor purchase and
5 installation of new microwave radio facilities operating at the 6GHz
6 frequency consisting of both T1 and Ethernet capabilities.

7 While keeping in mind the possibility that there could be more vendor
8 negotiations resulting in buyout and replacement of facilities, it is
9 recognized that Kenergy must continue with an ongoing plan to minimize
10 the impact of the 2013 deadline with reference to accepting and causing
11 interference. Any future negotiations resulting in a buyout of any Kenergy
12 facilities would minimize the cost of this plan. Many vendors may
13 determine that it is more cost effective for them to wait until the 2013 date
14 to utilize the frequencies thereby foregoing the costs necessary to migrate
15 the incumbents such as Kenergy off the frequencies. As of August 2010,
16 there has been a very preliminary contact from another AWS auction
17 winner which could impact the costs identified in this plan. Of significance
18 to this discussion is the identification of two (2) of the backbone paths
19 planned for migration in 2011 by the vendor as paths they are interested in.
20 As these discussions are very preliminary, it was felt that they should
21 remain in this plan as a Kenergy migration project until we have more

1 certainty that the vendor is willing to purchase us off those frequencies at
2 an acceptable value to Kenergy.

3 There is no doubt that Kenergy has realized great service from the analog
4 equipment that it now seeks to replace, not only for the reasons mentioned
5 but also because replacement parts and equipment are scarce. This
6 equipment was costly to the Coop when it began to be purchased in 1979,
7 but the quality of this past purchase has been proven by its longevity.

8 The money required for this project is significant, as it was for the original
9 equipment, but the resulting longevity and service desired should be taken
10 into account.

11 Q7. What is the net cost of this project?

12 A. 2 GHZ Microwave System Transition Plan

13 Cost breakdown by year

14	2011	\$443,000
15	2012	179,000
16	2013	<u>120,000</u>
17		\$742,000
18	(less)	<u>550,000*</u>
19	Net Cost	\$192,000

20
21 *Payment from cell provider to purchase five (5) existing paths, while
22 accommodating Kenergy's move to new paths.

23
24 Q8. What is the effect of delay?

25 A. Kenergy would not receive the \$550,000.00 payment and face paying the
26 full cost of the replacement system.

27 Q9. Does this conclude your testimony?

1 A. Yes.

2 I hereby verify that the foregoing answers are true and correct to the best of
3 my knowledge, information and belief.

4

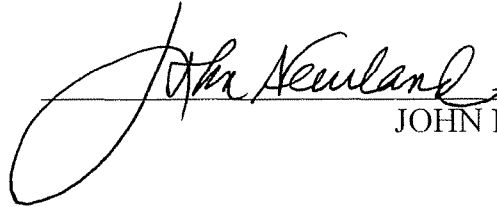
5

6

7

8

9



JOHN NEWLAND

10 STATE OF KENTUCKY

11

12 COUNTY OF HENDERSON

13

14 The foregoing was signed, acknowledged and sworn to before me by JOHN
15 NEWLAND, this 24th day of August, 2011.

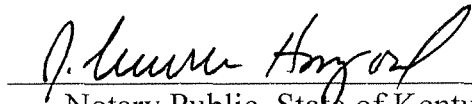
16

17 My commission expires 5-3-2014

18

19

20



Notary Public, State of Kentucky at Large

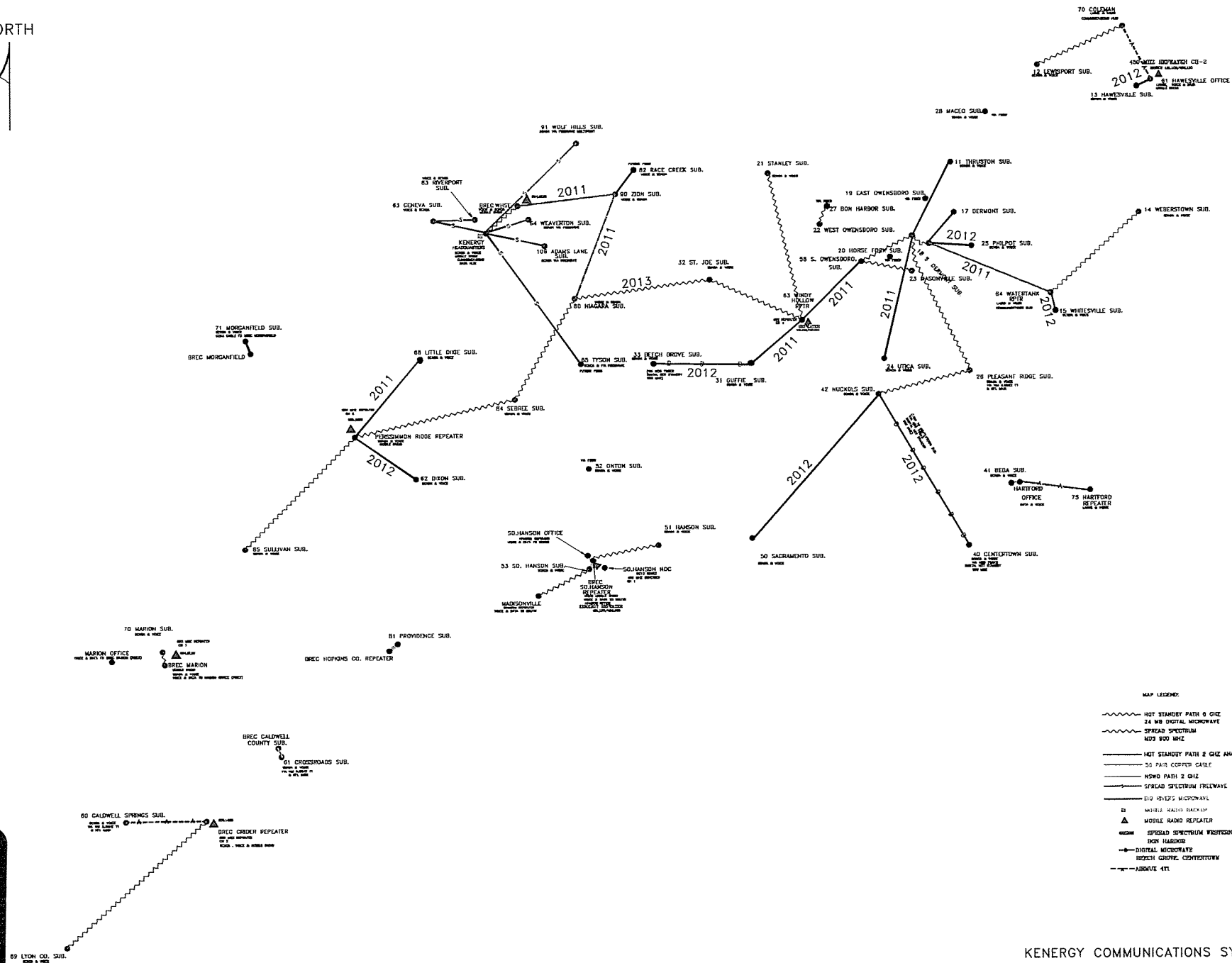
21

22

23 (seal)

John Christopher Hopgood, Notary
Public
My Commission expires: 5-3-2014
ID # 417911

NORTH



tabbies

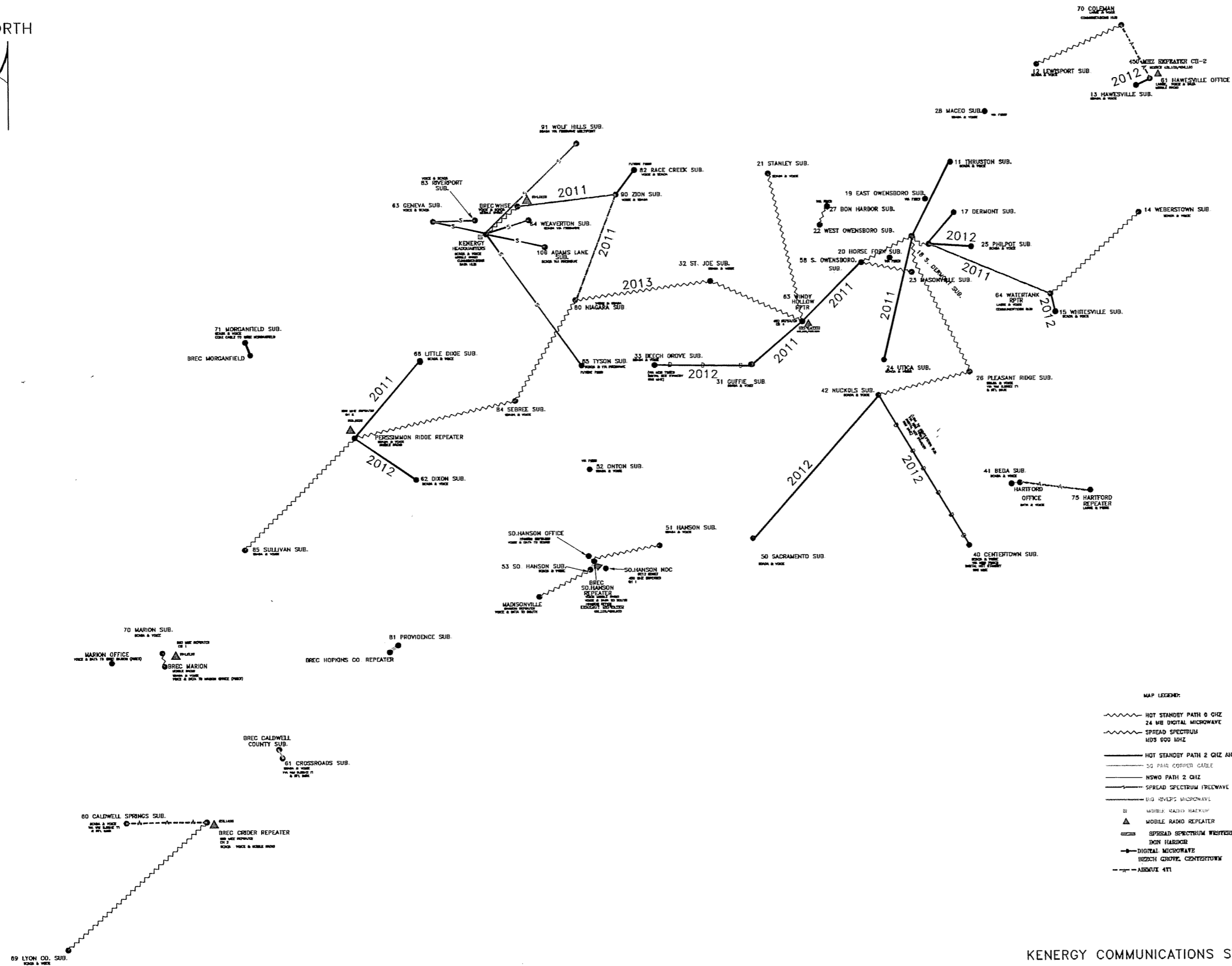
D

EXHIBIT

- MAP LEGEND:
- ~~~~~ HOT STANDBY PATH @ CHZ
 - ~~~~~ 24 HR DIGITAL MICROWAVE
 - ~~~~~ SPREAD SPECTRUM 4000 800 MHZ
 - HOT STANDBY PATH @ CHZ ANALOG
 - 30 PAIR COPPER CABLE
 - MOWD PATH @ CHZ
 - SPREAD SPECTRUM FIBERWAVE
 - 40 45-175 MICROWAVE
 - WIRELESS BACKUP
 - ▲ MOBILE RADIO REPEATER
 - ◻ SPREAD SPECTRUM WESTERN WTX INCH HANDED
 - DIGITAL MICROWAVE
 - ◻ HARTFORD REPEATER
 - APPROX 41T

KENERGY COMMUNICATIONS SYSTEM
 NAME: KENERGYMICRO_PSC.DWG | DRAWN BY: ENG.
 LAST REVISED ON 8-22-2011

NORTH



KENERGY COMMUNICATIONS SYSTEM
 NAME: KENERGYMICRO_PSC.DWG | DRAWN BY: ENG.
 LAST REVISED ON 8-22-2011

RECEIVED
 AUG 26 2011
 PUBLIC SERVICE
 COMMISSION