

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 7316

Investigation into regulation of Voice over )  
Internet Protocol ("VoIP") services )

Order entered: 3/23/2009

**ORDER DENYING REQUEST FOR EXTENSION**

On March 4, 2009, Comcast Phone of Vermont, LLC ("Comcast") filed a direct brief in this proceeding setting forth proposed findings of fact and conclusions of law concerning the extent to which the Vermont Public Service Board may regulate Voice over Internet Protocol pursuant to Vermont State Law. In addition to its direct brief, Comcast also filed a Motion to Reopen the Record in this proceeding ("Motion to Reopen") to enter into evidence certain supplemental testimony from Comcast Witness David Kowolenko.

On March 13, 2009, the Vermont Department of Public Service filed comments recommending that Comcast's motion be denied. On March 18, 2009, the Eight Independent Vermont Local Exchange Carriers (the "Independents") filed comments also recommending that Comcast's motion be denied. That same day, I issued a memorandum establishing April 1, 2009, as the deadline for any remaining party in this proceeding to file any comments on Comcast's Motion to Reopen.

On March 20, 2009, the Independents filed a request seeking to extend the impending deadline of March 25, 2009, for filing reply briefs in this proceeding.<sup>1</sup> As grounds for the extension, the Independents argue that the scope of the factual record will remain undefined until it is known whether Mr. Kowolenko's proposed supplemental testimony will be admitted into evidence in this proceeding. Accordingly, the Independents maintain that it would be preferable

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1. The Independents' request for extension of the reply brief filing deadline is supported by all of the parties to this proceeding. Letter from Cassandra-LaRae-Perez, Esq. to Susan M. Hudson dated March 20, 2009.

for all parties to delay the filing of their reply briefs in this docket until they know whether Comcast's Motion to Reopen will be granted or denied.

After careful consideration, I have decided to deny the Independents' extension request. The evidentiary record in this case has been closed since the end of the technical hearing on November 18, 2009. The scope of the evidentiary record therefore is defined and has not been changed simply because Comcast has filed a motion to reopen the record. I have taken Comcast's Motion to Reopen under advisement. Should I decide to grant that motion after April 1, 2009, then I will also provide a reasonable opportunity for all parties to address the substantive impacts, if any, of the new evidence. In the meantime, the March 25<sup>th</sup> deadline in this docket for filing reply briefs will stand. All parties are free to respond as they see fit in their reply briefs to any part of Comcast's direct brief as it relates to Mr. Kowolenko's proposed supplemental testimony. No prejudice will accrue to any party who chooses at this time not to address Mr. Kowolenko's proposed supplemental testimony.

**SO ORDERED.**

Dated at Montpelier, Vermont, this 23rd day of March, 2009.

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s/ June E. Tierney, Esq.

June E. Tierney, Esq.  
Hearing Officer

OFFICE OF THE CLERK

FILED: March 23, 2009

ATTEST: s/ Susan M. Hudson \_\_\_\_\_

Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)*