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From: Stephen Whitaker [mailto:whitaker.stephen@gmail.com]
Sent: Monday, July 17, 2017 4:04 AM
To: PSB - Clerk <PSB.Clerk@vermont.gov>
Cc: PUC - Clerk <PUC.Clerk@vermont.gov>
Subject: COMMENTS offered in Alt-Reg Investigation

via email

July 17, 2017

Ms. Judith H. Whitney
Clerk - Public Utilities Commission
State of Vermont

RE; Case No. I7-3142-PET

Dear Judy:

Please accept these as my comments due by July 18, 2017 for the record as invited by the Board's (now the Commission's) Order Opening Investigation dated June 26, 2017. (attached)

This investigation should absolutely not be limited to the electric and gas industries. Alt-Reg for Telecommunication in Vermont has also been in place since the passage of Act 87 of 1987 for regulated telecommunications companies and as such this sector should also now be examined for both its strengths and its many failures.

Since 1987, massive buildouts of telecommunications infrastructure have been made in Vermont including substantial investments of public funds in the form of federal and state grants. Much of this investment has been for the most part unregulated under 30 V.S.A. 226a and 226b.

Similarly, since 2004, Vermont has not had a complete and duly adopted Ten Year Telecommunications Plan serving as policy guidance.

Nor has any Vermont Ten Year Telecommunications Plan ever been grounded on a comprehensive inventory of visible infrastructure as is necessary to implement a meaningful and participatory planning process as is required by 202d and as is fundamentally necessary for the Commission to make sound, well considered decisions.

The Telecommunications Plan is relevant due to the fact that both contracts and incentive regulation plans approved by the Board under the above referenced statutory sections are required by statute to be found by the Board to be consistent with that plan, or good cause found for approval absent this consistency.

Many of the statutory goals of 30 V.S.A. 202c have yet to be implemented as is necessary in the context of these Alt-Reg regimes resulting in massive overbuilding of fiber in the urban and river corridors, a total lack of available open access fiber middle mile infrastructure in rural areas, rampant deferred maintenance and twin poles left in place for years, unsafe and unprotected fiber cables, etc.

Additionally, massive investment in soon to be out-moded ADSL and coax/DOCSIS infrastructure has been made, cluttering the public right of way and in direct contradiction of the goals of 202c and creating a new reliance on IP services for VOIP telephony despite the conspicuous absence of the battery backup of DC powered central office batteries to preserve 911 emergency calling access for these regulated telephony services.

In fact, no rate case has, to my knowledge, ever established any fair and equitable, non-discriminatory rates for dark fiber nor open access requirements in accordance with 202c.

Furthermore, Incentive Regulation under 226b was passed into statute in 1993 and implemented, possibly inadvertently, without the same crucial public protection provisions of 226a, therefore no Independent Public Advocate has ever been appointed nor supporting documents filed with the Board in these cases. Frequent settlement and MOUs have also become the norm, again absent the appointment of an Independent Public Advocate as is necessary to represent the public once the Department has aligned agendas with the regulated utility for good cause or more nefarious reasons.

This situation has left the Department of Public Service in a position to not only fail repeatedly to produce the required Telecommunications Plan under 202d since 2004, but then to be also advocating jointly with the regulated utility for approval of an IRP without a Telecommunications Plan for the Board to measure consistency with as is required by statutes 226a and 226b. In the 2014 charade of a Plan process, the Department failed to conduct hearings on a final draft of the plan as is explicitly required by statute, yet claims to have adopted it anyway. Now Director of Public Advocacy James Porter Esq. committed perjury in Washington Superior Court on this very question.

The prior Board Chairman in a recent FairPoint IRP docket suggested at a pre-hearing conference that the IRP should be reviewed under 226a and both the Department and the regulated utility adamantly opposed the suggestion.

Verizon's IRP was rolled over after the sale to FairPoint and several extensions made and finally a new IRP approved, all without a public advocate nor a duly adopted Ten Year Telecommunications Plan in place. In fact, the Board then recently approved the IRP for FairPoint with a term lasting until 2019 absent any finding at all of consistency with the 10Year Plan nor good cause for approval absent consistency. The Board's General Counsel at the time is now the Commissioner of Public Service.

Former Telecommunications Engineer with the Department of Public Service, Charles Larkin requested more than a few times from FairPoint to establish a price for the leasing of a pair of dark fibers from the splice cannister hanging on FairPoint's fiber line immediately across from his home on Portal Road, extending a few miles to the Montpelier central office, where interconnection with other fiber carriers such as Sovernet, Level3 or FirstLight could be made to reach Velco, to then bridge to ECFiber. All of these requests were repeatedly ignored, thereby preventing his and my ability to pursue interconnection with ECFiber Communications Union District, of which Montpelier is the only non-contiguous member.

If Vermont is to begin to realize the benefits of our overbuilt fiber infrastructure in some areas, and to extend those benefits to all Vermonters in accordance with statutory section 202c, it may now be necessary to investigate and first map our telecommunications infrastructure as well explore the need for a full-blown rate case to establish fair and

equitable pricing, as well as interconnection and reliability standards and enforcement procedures to assure that public safety is preserved and enhanced and economic efficiency and development is supported.

I specifically request that these issues be included on the agenda for the Workshop scheduled for August 8, 2017, commencing at 9:30 A.M., at the Susan M. Hudson Hearing Room, Third Floor, People's United Bank Building, 112 State Street, Montpelier, Vermont.

Thank you,

Stephen Whitaker