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STATE OF VERMONT  
PUBLIC UTILITY COMMISSION

Case No. 18-0491-PET

Joint petition of Champlain Broadband, LLC, City of Burlington d/b/a Burlington Telecom, and Blue Water Holdings LLC for approvals, pursuant to 30 V.S.A. §§ 109, 231, 504, 47 U.S.C. § 214(e), and Section 438(c)(1) of the City of Burlington Charter

**THE CITY OF BURLINGTON'S OPPOSITION TO THE  
MOTION TO INTERVENE OF FIVE TAXPAYERS**

The City of Burlington d/b/a Burlington Telecom (the “City”), by and through the undersigned counsel, hereby opposes the Motion to Intervene (the “Motion”) that was filed on March 28, 2018, on behalf of Sandra Baird, Esq., Dean Corren, Steven Goodkind, Solveig Overby, Esq., and Shay Totten (the “Five Taxpayers”).

**I. Summary**

The Motion of the Five Taxpayers must be denied. The Five Taxpayers assert a generalized interest as taxpayers in an issue unrelated to the present regulatory proceeding. Even if the Five Taxpayers could show that their interest is particular to them, rather than generally shared among all taxpayers in the City, the issue they raise is outside the scope of this proceeding and indeed is beyond the authority of the Commission to hear. The Commission has previously resolved the legal and regulatory issues regarding Burlington Telecom’s prior use of City funds for its operations. The Five Taxpayers cannot reopen the Commission’s final disposition of those issues. Raising their claims here will unduly delay the present proceeding and will

prejudice the interests of existing parties and of the public. Accordingly, the Commission should deny the Motion of the Five Taxpayers.

In the event the Commission decides to grant permissive intervention to the Five Taxpayers, the City respectfully asks that such intervention be strictly limited to the single issue raised by the Five Taxpayers under the City's municipal charter. If allowed to intervene in this proceeding, the Five Taxpayers should be barred from offering testimony, propounding discovery, engaging in cross-examination at hearings or advancing legal arguments with respect to the issues now before the Commission regarding the qualifications of Champlain Broadband, LLC ("Champlain") to offer telecommunications services and to operate a cable television system in the State of Vermont.

## **II. Background**

On February 26, 2018, the City, Champlain, and Blue Water Holdings LLC ("Blue Water," and, together with the City and Champlain, the "Joint Petitioners") jointly petitioned the Commission to approve the proposed sale of the assets of Burlington Telecom to Champlain; to issue such certifications, consents and designations as will allow Champlain to operate Burlington Telecom as a telecommunications network and cable television system in the State of Vermont; and to revoke the certifications and designations that the City and Blue Water now use to operate the Burlington Telecom network (the "Joint Petition").

The Commission convened a prehearing conference on the afternoon March 28, 2018. Beforehand, the Five Taxpayers filed their Motion with the Commission and then appeared through their counsel at the prehearing conference.

The Motion contends that “[t]he taxpayers of the City of Burlington are owed at least \$16.9 million from the investor or investors who have owned, own or will own Burlington Telecom’s assets.” Motion, at 2. The Motion asserts that the petition filed by the Joint Petitioners fails to “ask that the Commission find, under the authority granted to the [Commission] by Section 438(c)(1) of the City’s Charter, that the \$16.9 million that the Commission has already found are owed to taxpayers will be repaid,” and that “[a]pproval [of the petition] without such a finding would contravene 30 V.S.A. §§ 109 (general good), 231 (general good) and 504(c)(2) (compliance with all state laws).” Motion, at 2. The Motion further contends that the Five Taxpayers “can demonstrate that the \$16.9 million is entirely avoidable,” on the premise that the same revenue increase that Champlain projects from its ownership of the Burlington Telecom assets “would be garnered by Burlington Telecom if it retained its CPG and continue to operate the system, subject to existing CPG conditions 56 and 60, which ensure repayment.” Motion, at 2. Finally, the Motion contends that the Five Taxpayers “can assist [the Commission] in understanding the factual and legal background for the Petition. Motion, at 4. The Motion fails to demonstrate, or even to assert, that the Five Taxpayers have a substantial, particularized interest in the outcome of this proceeding. Instead, the Motion contends that the Commission “has rejected the argument that a substantial, particularized interest is required for intervention.” Motion, at 5.

### **III. Legal Standard**

Rule 2.209(A) requires the Commission to grant intervention

- (1) when a statute confers an unconditional right to intervene;
- (2) when a statute confers a conditional right to intervene and the condition or conditions are satisfied;
- or (3) when the applicant demonstrates a substantial

interest which may be adversely affected by the outcome of the proceeding, where the proceeding affords the exclusive means by which the applicant can protect that interest, and where the applicant's interest is not adequately represented by existing parties.

Rule 2.209(B) allows the Commission, at its discretion, to grant intervention "when an applicant demonstrates a substantial interest which may be affected by the outcome of the proceeding," so long as the Commission has first considered

(1) whether the applicant's interest will be adequately protected by other parties; (2) whether alternative means exist by which the applicant's interest can be protected; and (3) whether intervention will unduly delay the proceeding or prejudice the interests of existing parties or the public.

As discussed below, the Motion of the Five Taxpayers fails to satisfy any of the foregoing criteria for granting intervention in this proceeding, and the Motion must be denied.

#### **IV. Argument**

##### **A. The Five Taxpayers cannot intervene as-of right.**

The Five Taxpayers do not assert that any statute gives them a right to intervene in this proceeding. For this reason, they rely on the criteria listed in Rule 2.209(A)(3). Those criteria require the Five Taxpayers to demonstrate that they have a "substantial interest" that may be adversely affected by the outcome of this proceeding; that the proceeding affords the exclusive means by which they can assert that interest; and that their interest is not adequately represented by existing parties.

These standards are related to the standards for permissive intervention in Rule 2.209(B) and are addressed in more detail in Section IV(B) below. As the following discussion

demonstrates, the Five Taxpayers have failed to meet any of these criteria, and their Motion must be denied.

**B. The Five Taxpayers should be denied permissive intervention.**

The Motion of the Five Taxpayers fails to satisfy the standards required under Rule 2.209(B), and the Commission should accordingly deny the Five Taxpayers' request for permissive intervention.

**1. The Five Taxpayers have not demonstrated a substantial, particularized interest that may be affected by the outcome of this proceeding.**

The Five Taxpayers have not demonstrated a particularized interest in the outcome of this proceeding. They assert that “[t]heir taxes will be directly affected because they will have to pay more taxes than would otherwise be necessary if the \$16.9 million were repaid.” Motion, at 4. Because their interest is a generalized one that arises solely from their status as taxpayers in the City, their Motion fails to meet the “substantial interest” test under Rule 2.209 and must be denied.

A person seeking intervention in a Commission proceeding must demonstrate a substantial and *particularized* interest in the outcome of the proceeding. *See Petition of GMP Solar-Williamstown, LLC*, Docket No. 8682, Order Re: Motions to Intervene (Vt. Pub. Serv. Bd., Apr. 22, 2016), slip op., at 6 (proposed intervenor concerned primarily with the competitive effects of a project under review failed to demonstrate a substantial and particularized interest that may be affected by the outcome of the proceeding). The Commission has previously rejected an assertion of a generalized interest in the City's finances as a basis for intervening in a Burlington Telecom proceeding. *Petition of the City of Burlington d/b/a Burlington Telecom*,

Docket No. 7044, Scheduling Order, Ruling on Motion to Intervene (Vt. Pub. Serv. Bd., Nov. 24, 2009), slip op. at 2. In that earlier Burlington Telecom case, the Commission denied a motion to intervene by the Burlington Police Officers Association (the "Association"), which asserted that "significant financial obligations and responsibilities of the city . . . could affect the resources of the city to negotiate a new collective bargaining agreement with the city." *Id.* The Commission, through its Hearing Officer, held as follows:

While the Association's concern about how this proceeding may affect the financial resources of the City of Burlington is understandable, I do not believe it is appropriate to grant the Association's motion because the Association has not demonstrated a substantial interest that may be affected by the outcome of this proceeding and, in any case, alternative means exist to protect whatever interest it may have in this proceeding. Municipal governments take on many significant commitments and are often involved in proceedings that may affect their financial obligations and resources. To permit someone to intervene in a proceeding on the basis that its negotiations with a municipal government may be affected by the impact of the proceeding on the financial resources of the municipal government would set an unfortunate precedent that could greatly expand the boundaries for permissive interventions in other proceedings. . . .

*Id.*

The stated interest of the Five Taxpayers in this proceeding is even more generalized than the interest of the Association was in the prior proceeding. The Five Taxpayers are not parties to any contracts or agreements with the City and have no commercial or employment relationship with the City. While the Five Taxpayers have an understandable concern about the City's fiscal affairs, their stated concern does not rise to the level of "a substantial interest which may be affected by the outcome of the proceeding," as required by Rule 2.209(B).<sup>1</sup>

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<sup>1</sup> The Five Taxpayers have even less ability to demonstrate "a substantial interest which may be *adversely* affected by the outcome of this proceeding," as required by Rule 2.209(A)(3) (emphasis added).

Contrary to the Five Taxpayers' assertion, the Commission has not "rejected the argument that a substantial, particularized interest is required for intervention." Motion, at 5. The Five Taxpayers' Motion mistakenly relies on a Commission order granting permissive intervention to a group of forty-six ratepayers in the Commission proceeding involving the merger of Central Vermont Public Service Corp. and Green Mountain Power Corp. *See Joint Petition of Central Vt. Pub. Serv. Corp., et al.*, Docket No. 7770, Order Re: Intervention Motions (Vt. Pub. Serv. Bd., Nov. 1, 2011) (the "CVPS-GMP Merger Case"), slip op., at 10. The Five Taxpayers fail to acknowledge, however, that the Commission specifically limited its ruling in the CVPS-GMP Merger Case to "the context of this unprecedented and extraordinarily significant proceeding." *Id.* The Five Taxpayers' Motion does not contend that the present proceeding arises in an analogous context, nor do the Five Taxpayers recognize that the Commission continues to apply the "substantial and particularized interest" standard routinely when resolving motions to intervene in Commission proceedings. *See Petition of GMP Solar-Williamstown, LLC, supra*, at 6. The Motion of the Five Taxpayers fails to meet that standard and must be denied.

**2. The interest asserted by the Five Taxpayers is not the subject of the present proceeding.**

The Five Taxpayers' Motion also fails the "substantial interest" test in a second fundamental way, in that the Five Taxpayers' asserted interest bears no relation to the subject matter of this proceeding. A "substantial interest" for purposes of intervention must relate to the subject matter of the proceeding. *See Application of Seneca Mountain Wind, LLC*, Docket No. 7867, Order Re: Motion for Interlocutory Review (Vt. Pub. Serv. Bd., Oct. 5, 2012), slip op., at 2

(proposed intervenors' concerns about industrial-scale wind development are not relevant to an application to install temporary meteorological stations).

In this case, the Joint Petitioners have asked the Commission to determine that the sale of Burlington Telecom's assets to Champlain will promote the general good of the State of Vermont. The Five Taxpayers, however, now seek to interpose a regulatory issue that the Commission previously resolved in connection with the sale of Burlington Telecom's assets to Blue Water in 2014. *Petition of City of Burlington d/b/a Burlington Telecom*, Docket No. 7044, Final Order (Nov. 3, 2014) ("BT Sale Order"). The Commission's prior resolution of that issue precludes the Five Taxpayers from raising it in this proceeding.

In 2010, the Commission had determined that the City used \$16.9 million in fund advances from its cash pool to finance Burlington Telecom's operations in 2007-09, in violation of Conditions 56 and 60 of Burlington Telecom's CPG. *Id.*, Order on Motions and Cross-Motion for Partial Summary Judgment (Vt. Pub. Serv. Bd., Oct. 8, 2010) (the "Violations Order"), slip op. at 33 ¶¶ 3-4.<sup>2</sup> Four years later, in the BT Sale Order, the Commission approved a transaction that allowed Burlington Telecom to restructure its existing debt and to resolve all of its outstanding regulatory violations. *See id.*, BT Sale Order, at 32 ("[W]e conclude that all existing and ongoing violations of Conditions 2, 17, 56, and 60 of the CPG, as found and described in the Board's Order of October 8, 2010, are resolved."). In the 2014 transaction, Blue Water acquired substantially all of Burlington Telecom's assets from the City in return for providing the City with "bridge" financing that would allow the City to fulfill the requirements of the City's Mediated Settlement Agreement with Citibank. *Id.*, slip op. at 2-3.

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<sup>2</sup> The Commission also determined that Burlington Telecom violated Condition 17 of its CPG by failing to meet its system buildout requirement, and violated Condition 2 of its CPG by failing to conduct its operations in accordance with its CPG. Violations Order, slip. op. at 32-33, ¶¶ 2 & 5.

The BT Sale Order fully resolved the regulatory issue of the City's unauthorized advance of \$16.9 million in general funds to Burlington Telecom. First, the Commission acknowledged that approving the sale of assets to Blue Water would effectively preclude Burlington Telecom's repayment of the \$16.9 million to the City:

The Board's inquiry about possible alternatives to the Blue Water financing was also prompted by BT's improved financial condition and the significant effect the proposed sale of BT's Assets to Blue Water would have in reducing the ability of the City and its taxpayers to recover a substantial portion of the City's unauthorized \$16.9 million investment in Burlington Telecom. Among the possible alternatives addressed by the parties were a BT revenue bond issuance, payments by the City either directly from the general fund or through the City's existing short-term credit facilities, or a longer-term financing. . . . However, . . . the testimony of City officials and other filings by the City . . . indicate the City officials' clear preference for the Blue Water financing over any alternative that would involve any significant use of taxpayer funds or require voter approval. The City's position on the user of taxpayer funds even on a short-term basis is understandable given the City's history with financing initiatives involving BT, the magnitude of the direct payment that the City would have to make at the closing of the Citibank Settlement, and uncertainties associated with a subsequent BT revenue bond issuance. . . .

Although alternatives to the Blue Water sale and lease financing to fund the Citibank settlement may have been possible, the Board concludes it is in the general good of the state to allow the City administration and the City Council to make the funding and financing decisions with respect to the Citibank Settlement that they believe best serve the interests of the City and its taxpayers. On this basis, the Board approves the Blue Water sale and lease financing.

*Id.*, slip op. at 24-26 (footnotes omitted and emphasis added).

In addition, the Commission expressly recognized that the City could make "a determination as to whether and to what extent it will need to write-off the City's \$16.9 million

of advances to BT and to record a loss on the City's books and records upon the closing of the proposed sale of BT's assets to Blue Water." *Id.*, slip op. at 17, Finding of Fact #54.<sup>3</sup>

With its approval of the Blue Water sale and financing, and its acknowledgement of the City's authority to make funding and financing decisions, the Commission adjudged that "[a]ll existing and ongoing violations of Conditions 2, 17, 56, and 60 of the CPG, as found and described in the Board's Order of October 8, 2010, are resolved." *Id.*, slip op. at 35 ¶ 3.

Accordingly, any regulatory issues around the City's prior investment of \$16.9 million in Burlington Telecom were resolved in the BT Sale Order, which became final in 2014. The Commission has no further regulatory action to take with respect to that investment. The Five Taxpayers' desire to revisit the regulatory status of that earlier investment, and to require the Commission to impose conditions on the present transaction as a result of that prior investment, must fail. The Five Taxpayers do not allege that the Commission made a mistake or committed fraud when it issued the BT Sale Order, or that newly discovered evidence warrants reopening the Commission's decision in the BT Sale Order. *Cf.* V.R.C.P. 60(b). The Board should not reopen the finality of its 2014 BT Sale Order to address the Five Taxpayers' concern.

Because the Five Taxpayers seek regulatory relief that is beyond the scope of the present proceeding, and indeed beyond the Commission's power to grant, the Five Taxpayers cannot demonstrate a substantial interest that may be affected by the outcome of this proceeding.

Accordingly, their Motion must fail.

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<sup>3</sup> Following the closing of the Blue Water asset sale, the City restructured its Burlington Telecom investment to remove the then-existing liability from its books. The City makes an offer of proof in this regard, but also asserts that the Commission's resolution of the regulatory status of the \$16.9 million investment is a purely legal question under the BT Sale Order, whether the City subsequently exercised its financing authority or not.

3. **The Five Taxpayers should not be allowed to reopen an issue that was previously resolved by the Commission.**

The Commission can grant intervention only if the present proceeding affords the exclusive means for the Five Taxpayers to assert their stated interest. Rule 2.209(A)(3); Rule 2.209(B)(2). In this case, however, Five Taxpayers are precluded from asserting their stated interest in this proceeding, because the Commission has already fully and fairly resolved the issue they now seek to raise. *Supra*, at 8-10.

In the present proceeding, the Joint Petitioners seek approval from the Commission for the sale of Burlington Telecom's assets to Champlain and the certification of Champlain to operate a cable television system and to offer telecommunications services in the State of Vermont. The Five Taxpayers now seek to intervene for the purpose of imposing regulatory conditions directed at the City's previous \$16.9 million investment in Burlington Telecom. In the BT Sale Order, the Commission resolved the legal and regulatory issues that resulted from the City's unauthorized investment. BT Sale Order, slip op. at 35 ¶ 3. It would be inappropriate to expand the scope of the present proceeding to re-consider an issue that the Commission previously resolved. *See, e.g., Investigation of Vermont Wind, LLC*, Case No. 8653, Order Determining Analytic Methodology for Compliance Measurements (Vt. Pub. Util. Comm'n, Jan. 18, 2018) (party to was barred from re-raising issue of petitioner's non-compliance with CPG condition that was previously resolved by Commission). The Commission should give preclusive effect to the finality of its 2014 BT Sale Order and bar the Five Taxpayers from revisiting that issue in this proceeding.

The present proceeding does not provide an "exclusive" means for the Five Taxpayers to assert their stated interest, because the Commission's 2014 BT Sale Order bars the Five

Taxpayers from seeking further regulatory relief on that issue. Any forum the Five Taxpayers may select to raise their issue should similarly give preclusive effect to the Commission's resolution of that question in the 2014 BT Sale Order. The present proceeding is no different; the Five Taxpayers cannot raise an issue here that has already been fully and finally resolved by the Commission.

The appropriate time for the Five Taxpayers to have asserted their interest was in the 2014 proceeding involving the sale of Burlington Telecom's assets to Blue Water, when the disposition of the City's prior regulatory violations was before the Commission. The Commission resolved those regulatory issues in their entirety and authorized the City to make funding and financing decisions to effectuate the Commission's decision. The Commission should not reopen that decision in this proceeding. Accordingly, the Five Taxpayers have failed to satisfy the requirements for intervention under Rule 2.209, and their Motion must be denied.

**4. Granting intervention to the Five Taxpayers will unduly delay the proceeding and prejudice the interests of the existing parties and the public.**

The Commission must deny the Five Taxpayers' Motion because granting intervention to the Five Taxpayers will unduly delay the present proceeding and prejudice the interests of the existing parties and the public. The Commission has already resolved the regulatory issues that arose from the City's use of \$16.9 million in pooled funds to support Burlington Telecom's operations in 2007-09. BT Sale Order, slip op. at 35 ¶ 3. The Five Taxpayers have not offered any basis upon which the Commission can reopen those regulatory issues for consideration or determination in the present proceeding. Allowing the Five Taxpayers to intervene for the purpose of reconsidering those earlier issues will necessarily complicate and delay the prompt

and orderly resolution of the questions presented in Joint Petitioners' petition, to the prejudice of all of the Joint Petitioners and the public.

In particular, the Joint Petitioners have asked the Commission, as part of its approval of the Asset Purchase Agreement ("APA") in this proceeding, to make a finding that the City's expected exercise of its membership interest purchase authority under Section 8.09 of the APA will comply with Section 438(c)(1) of the Burlington Charter. Joint Petition, at 9 ¶ 2(d). The Joint Petitioners' request arises from the special authority granted to the Commission in the Burlington Charter. *See* 24 V.S.A. (App.) § 3-483(c)(1); *see also Osier v. Burlington Telecom*, 2016 VT 34 ¶¶ 3-4, 201 Vt. 483, 486 (2016) (reciting Commission's authority under Burlington charter). The Five Taxpayers' Motion is also directed to the Commission's special jurisdiction under the Burlington Charter. Motion, at 3. Their stated interest, however, is entirely unrelated to the Joint Petitioners' request and arises from the Five Taxpayers' specific intention to compel the City, as a regulatory mandate, to acknowledge an ongoing obligation from the City's prior investment in Burlington Telecom.

The Commission should not allow the Five Taxpayers to interject the earlier investment issue into the City's ability to exercise the authority granted to it in the APA and the Burlington Charter. Allowing the Five Taxpayers to intervene will needlessly complicate and confuse the regulatory issues involved in this proceeding and will prejudice the Joint Petitioners' interest in reaching a prompt and orderly conclusion to the Commission's review of their petition. For these reasons, the City urges the Commission to deny the Five Taxpayers' Motion.

5. **The Five Taxpayers have failed to demonstrate that their interests are not adequately represented by existing parties, particularly by the City and by the Department.**

The Five Taxpayers are required to show that their asserted interest is not adequately represented by existing parties. Rule 2.209(A)(3); Rule 2.209(B)(1). The Five Taxpayers have failed to satisfy this requirement, and their Motion must be denied.

The stated interest of the Five Taxpayers is in compelling the City, as a regulatory mandate from the Commission, to acknowledge its earlier \$16.9 million investment in Burlington Telecom as a continuing obligation to the City. Motion, at 2-3. As has been shown previously, the Commission has already resolved all regulatory issues arising from the City's earlier investment in Burlington Telecom. *Supra*, at 8-10. Nonetheless, to the extent the Five Taxpayers assert any interest in this proceeding, it is a generalized concern for the City's fiscal affairs. That interest is adequately represented by the City, which is a legally established and duly incorporated "body corporate and politic" under Vermont law. 24 V.S.A. (App.) § 3-1. That interest is also represented in this proceeding by the Department of Public Service ("Department"), which is authorized by statute to "represent the interests of the people of the State" in all proceedings before the Commission. 30 V.S.A. § 2(b).

The Five Taxpayers identify no particularized interest and bring no specialized knowledge to assist the Commission in this proceeding. The Motion asserts that the Five Taxpayers "have been actively involved in City proceedings in order to protect taxpayer interests in this matter . . ." Motion, at 4. However, the Commission is asked to determine whether the transaction presented in the Joint Petition will promote the general good of the State of Vermont, not to revisit and second-guess the alternative bids that were presented to the City during the selection process. The Five Taxpayers have not shown that their generalized concern for the City's fiscal affairs cannot be adequately represented by the City and the Department in this proceeding.

The City has worked diligently to establish a plan and to negotiate a transaction that balances the needs of the customers of Burlington Telecom, the taxpayers of the City, the requirements of the City's agreements with Citibank and Blue Water, and the interest of the public generally. The proposed transaction reflects that balance and represents a plan that, if approved by the Commission, will maximize the City's financial position while preserving and extending the public benefits that Burlington Telecom has brought to the people of Burlington as a local utility service.

The Five Taxpayers would prefer to have no sale of Burlington Telecom's assets. As their Motion makes clear, their preferred outcome is to have Burlington Telecom retain its CPGs and continue to operate the system as it now does, without a new buyer. Motion, at 3. The Commission, however, must consider only the transaction the Joint Petitioners have submitted for approval, not alternative scenarios that are not before the Commission.

General care and concern for the City's fiscal affairs will be adequately represented by the City in this proceeding. The Department will adequately represent the public interests of the State. Because the stated intent of the Five Taxpayers can be adequately represented by existing parties, the Motion must be denied.

**C. If the Commission grants intervention, the participation of the Five Taxpayers should be limited to the issue they have raised.**

The Five Taxpayers have not satisfied the conditions required for intervention under Board Rule 2.209. If the Commission, in its discretion, is nonetheless inclined to grant permissive intervention to the Five Taxpayers, the City respectfully requests that such intervention be strictly limited to the particular issue they have raised – namely, whether the City

has a continuing obligation to seek repayment of its prior investment of \$16.9 million from Burlington Telecom, and if so, whether the Commission can fashion conditions to ensure that such repayment is made. In the City's view, these questions were fully and finally addressed by the Commission's 2014 BT Sale Order, which resolved the City's prior regulatory violations and authorized the City to make decisions to restructure Burlington Telecom's financing for an eventual sale. Any remaining regulatory concerns, if they exist, must be extremely narrowly drawn so as not to disturb the finality of the BT Sale Order or to intrude on the City's ability to complete the present sale in fulfillment of its existing settlement agreements.

In particular, the Five Taxpayers have not raised any issues regarding Champlain's qualifications to own and operate a cable television system or to offer telecommunications services in the State of Vermont. Accordingly, the Commission should strictly bar the Five Taxpayers from addressing issues – through prefiled testimony, the propounding of discovery, offering their own testimony or evidence at hearing, cross-examining the witnesses of other parties, objecting to the admission of evidence, or advancing legal arguments – that are unrelated to the narrow intervention issue they have raised in their Motion. Rule 2.209(C); *see Petition of Champlain VT, LLC d/b/a TDI New England*, Docket No. 8400, Order re: Intervention Requests (Vt. Pub. Serv. Bd., March 12, 2015), slip op., at 3 (restricting participation of various intervenors “to only those issues that they have identified in their motions and in which they have demonstrated an interest”). To the extent the Commission believes that the Five Taxpayers have raised a cognizable regulatory concern, the Commission should not give the Five Taxpayers latitude to intrude upon the Commission's prompt and orderly consideration of the issues raised in the Joint Petition.

**V. Conclusion**

The Five Taxpayers' Motion to Intervene must be denied. The Motion offers no statutory basis to support a right to intervene. Other than a generalized concern about the possibility of higher taxes, the Five Taxpayers have not articulated any substantial and particularized interest in the outcome of this proceeding, nor have they offered any specifics to explain how they might be adversely impacted as individuals by the Commission's decision. As the City demonstrated, the actual issue raised in the Five Taxpayers' Motion was fully and finally resolved by the Commission in 2014. There is no remaining regulatory issue for the Commission to consider in this proceeding with respect to the City's prior investment in Burlington Telecom, and the Five Taxpayers are barred from asserting that issue in this proceeding.

The Five Taxpayers have failed to demonstrate that their generalized concern for the City's fiscal affairs cannot be adequately represented in this proceeding by the City itself and by the Department, both of which exercise statutory authority to represent the public.

Granting intervention to the Five Taxpayers on the basis of their stated interest will unduly delay this proceeding and unfairly prejudice the existing parties and the public. While the Five Taxpayers have an understandable concern for public and fiscal matters, the issue they raise is not the subject of the present proceeding, nor is it within the Commission's power to resolve.

WHEREFOR, the City of Burlington urges the Commission to DENY the Motion to Intervene of the Five Taxpayers.

DATED at Burlington, Vermont, this 11th day of April, 2018.

Respectfully submitted,

THE CITY OF BURLINGTON d/b/a Burlington Telecom

By: PRIMMER PIPER EGGLESTON & CRAMER PC,  
Its Attorneys

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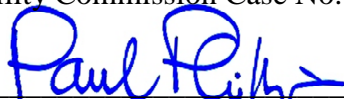
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**CERTIFICATE OF SERVICE**

I, Paul J. Phillips, Esq., certify that on April 11, 2018, I forwarded copies of the foregoing "The City of Burlington's Opposition to the Motion to Intervene of Five taxpayers" to all parties listed on the Service List for Public Utility Commission Case No. 18-0491-PET.

DATED: April 11, 2018

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Paul J. Phillips, Esq.