

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, and 504; 47 U.S.C. §214(e); and Section 438(c)(1) of the City of Burlington Charter	
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Order entered: 05/07/2019

ORDER DENYING MOTION OF CHAMPLAIN FOR LACK OF JURISDICTION

On February 19, 2019, the Vermont Public Utility Commission (“Commission”) issued an order approving the transaction in which Champlain Broadband, LLC (“Champlain”), doing business as Burlington Telecom, would acquire Burlington Telecom assets and granted Champlain certificates of public good (“CPGs”) to own and operate a cable television system and to provide telecommunications services in the State of Vermont. On April 12, 2019, we denied motions for additional findings and to alter or amend our decision filed by Sandra Baird, Esq., Jared Carter, Esq., Dean Corren, Steven Goodkind, Solveig Overby, Esq., and Shay Totten (collectively the “Citizen Intervenors”).

On May 2, 2019, Champlain filed a motion in this case to modify Condition 45 of its cable television CPG, which requires that Service Quality and Reliability Plans for Burlington Telecom be filed within 90 days of the issuance of the final order in this case (May 20, 2019). Champlain Broadband is requesting that the CPG be modified to extend the due date to 180 days after the final order was issued in this case (August 18, 2019).

On May 7, 2019, the Citizen Intervenors filed with the Commission a notice of appeal to the Vermont Supreme Court appealing the final judgment of the Commission in this case.

As a result of the subsequent filing of this appeal, the Commission no longer has jurisdiction to consider Champlain’s motion in this case:

In this jurisdiction, it has long been the rule established by judicial decision that when a proper notice of appeal from a final judgment or order of the lower court

is filed the cause is transferred to this Court, and the lower court is divested of jurisdiction as to all matters within the scope of the appeal.¹


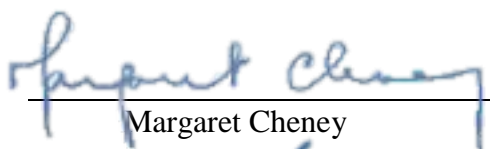

Accordingly, the Commission denies Champlain's motion for lack of jurisdiction.

It may be possible for Champlain to file a request with the Vermont Supreme Court to allow the Commission to rule on Champlain's motion during the pendency of the appeal. Alternatively, it may be possible for Champlain to file a petition with the Commission in a new case requesting an amendment to the CPG issued to Champlain on February 19, 2019, although any such request would need to be evaluated to determine whether it falls within our jurisdiction while an appeal is pending. If Champlain elects to file a petition to amend its CPG in a new case, it must address at the time it files its petition any jurisdictional issues related to the Commission's consideration of this petition while the appeal of the Commission's final order in this case is pending before the Vermont Supreme Court.

¹ *Kotz v. Kotz*, 134 Vt. 36, 38, 349 A.2d 882, 884 (1975) (citations omitted).

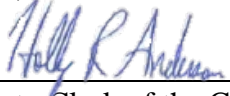
SO ORDERED.

Dated at Montpelier, Vermont, this 7th day of May, 2019.

 _____)) PUBLIC UTILITY
Anthony Z. Roisman)	
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 _____)) COMMISSION
Margaret Cheney)	
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 _____)) OF VERMONT
Sarah Hofmann)	
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OFFICE OF THE CLERK

Filed: May 7, 2019

Attest: 
_____)
Deputy Clerk of the Commission

Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Commission (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: puc.clerk@vermont.gov)

PUC Case No. 18-0491-PET - SERVICE LIST

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