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Judith Whitney, Clerk Vermont
Vermont Public Utility Commission
112 State Street
Montpelier, VT 05620

Re: Proposed Revisions to Vermont Public Utility Commission Rule 2
Docket No. 20-2369-RULE

Dear Mrs. Whitney:

On November 12, 2020, the Public Utility Commission (“Commission”) issued a Procedural Order¹ requesting response comments by December 4, 2020 and scheduling a Workshop on December 18, 2020. Comcast appreciates the Commission’s hard work in preparing a comprehensive proposed revision to Rule 2. Comcast did not submit initial comments, but also appreciates the opportunity to file responses to the comments of other participants.

Comcast supports the comments of the Department of Public Service (“Department”) in a number of respects. First, along with the Department, Comcast does not support the proposed page limitations on motions and briefs in Rule **2.204E(1)**. Comcast agrees with the Department’s comment that a blanket limitation will hinder the parties in adequately addressing all the factual and policy issues in complex cases.² Comcast supports the Department’s recommendation that the rule be modified to allow for the Commission or a Hearing Officer to impose page limitations in cases if appropriate depending on the complexity of the case and scope of disagreement among the parties.³

¹ Procedural Order Setting Deadline for Response Comments and Scheduling Workshop, November 12, 2020.

² For example, the Commission’s Order of January 13, 2017 approving Comcast’s Renewal CPG in Docket 8301 was 102 pages. Comcast’s Proposal for Decision and Findings of Fact was 51 pages. In its October 2, 2020 comments, the Vermont Agency of Natural Resources also opposes page limitations and proposes allowing a waiver for good cause.

³ Department of Public Service Comments on Proposed Revisions to Rule 2, October 16, 2020 (“Department Comments”) at 2. Utility rate cases fall into the same category of complex cases.

Second, Comcast supports the Department's recommendation to eliminate the proposed language in **Rule 2.206** (Motions, Responses to Motions, and Replies in Support of Motions) allowing the Commission to decline to consider a motion not made within 30 days after the facts that form the basis for the motion first arose.⁴ Comcast also supports the Department's comments regarding service of confidential information on other parties only after entry into a confidentiality agreement and regarding the manner of service for confidential information.⁵

Comcast offers additional comments regarding other sections of the Commission's proposed revisions to Rule 2 addressed by other participants:

Rule 2.201(C). Comcast often participates in Commission proceedings that involve specialized questions of federal law such that arise, for example, in proceedings involving cable CPGs or pole attachment rates that benefit from the representation by out-of-state attorneys with expertise in the subject matter. Accordingly, Comcast supports the proposed language under which an out-of-state attorney who previously was permitted to appear does not need the Commission's permission for later appearances on behalf of the same client subject to an attestation requirement.

Rule 2.201(E)(2). *Ex parte* communications. The issue of *ex parte* communications is a complicated topic and deserves thorough discussion during the Workshop.

Rule 2.204(E)(4). Filings, Time of Submission. Comcast observes that if the ePUC system is down or not functional, any Commission notice via ePUC extending a filing deadline is unlikely to be delivered as intended. Therefore, language should be added allowing the Commission Clerk to notify parties by email or other means.

Rules 2.204(E)(6). Form of Filing, Review of Submissions, and 2.208 Defective Filings. Filings should not be rejected for non-substantive or very minor deviations from the Commission's rules, and there should be an opportunity to cure defective filings for minor deviations. If the original filing was rejected for a non-substantive reason (e.g., missing a page number, transposition of digits in a docket number), the corrected filing should be accepted as of the date of the original filing.

Rule 2.207. Time. Comcast agrees with the comment⁶ that the current practice of allowing the Commission or Hearing Officer discretion to grant extensions of time should be retained. For example, circumstances such as scheduling conflicts or unavailability or illness of counsel often arise and as a matter of courtesy opposing parties routinely agree to extensions.

Rule 2.209(B). Permissive Intervention. Comcast agrees with several commenters that the standard for permissive intervention requiring demonstration of a substantial and particularized interest should be retained.⁷

⁴ Department Comments at 2-3.

⁵ Department Comments at 4.

⁶ Memo of Green Lantern Development, LLC to the Commission, October 16, 2020 at 4.

⁷ See comments of Vermont Electric Cooperative, October 2, 2020 at 1-4; Vermont Gas Systems, October 2, 2020 at 1; Dunkiel Sanders, October 16, 2020 at 3-4; Downs, Rachlin, October 16, 2020 at 1; Renewable Energy Vermont, October 16, 2020 at 1-3; Memo of Green Lantern Development, October 16, 2020 at 1-2.

Rule 2.214(A) and (B). Discovery. Comcast supports the Commission's proposed limit of 25 interrogatories per round of discovery. In complex proceedings, the public and the parties' interests are protected because the rule as drafted provides an opportunity for the Commission and/or Hearing Officer to allow otherwise, and there is no limit on the amount of Commission discovery.

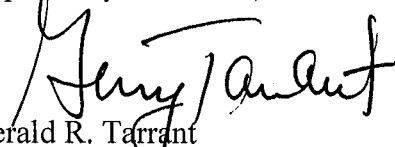
Rule 2.216(C). Deadline for Objecting to Prefiled Testimony. Comcast understands the Commission's concern that the current rule imposes too early a deadline for objecting to prefiled testimony.⁸ However, parties should be encouraged to review prefiled testimony that often is filed well in advance of hearing and raise timely objections. The party sponsoring the testimony also should have an opportunity to revise the testimony in response to the objection. This process should occur as early as possible so that the time before the hearing can be devoted to preparation rather than arguments over admissibility. Accordingly, Comcast supports allowing modifications to the requirement that objections be filed at least 14 days before hearing.⁹

Rule 2.204(G)(2), Amendments, Rate Filings. Comcast submits that current Rule 2.204(G)(2) that requires a party to demonstrate the need for amending a rate filing and that contains standards for allowing amendments must be retained. The Commission's proposed language that relies on 30 VSA §225 (which contains no standards regarding amended rate filings) is not a substitute for the current rule and could open the door to unjustified amendments that constitute a moving target.

Rule 2.401, Tariff Filings and Rule 2.402(A), Rate Proceedings, Justification for Change in Rates. Tariff filings for changes in pole attachment rates should be accompanied by the information justifying the changes. Language should be added to Rule 2.402(A) addressing changes by pole owning utilities in pole attachment rates; all filings for changes in pole attachment rates must contain complete and substantial justification for the proposed change following the requirements of Rule 3.706(C).

Comcast supports the Workshop process and looks forward to participating in this proceeding in order to elaborate on these general points.

Respectfully submitted,



Gerald R. Tarrant
It's Attorney

cc: Certificate of Service
Client

⁸ Order Opening Rulemaking, August 27, 2020 at 4.

⁹ Comment of Sheehy Furlong & Behm, PC, October 2, 2020.