

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 18-3231-PET

Petition of the Department of Public Service)
for an Investigation into the Service Quality)
Provided by Telephone Operating Company)
of Vermont, Inc. d/b/a Consolidated)
Communications, Inc.)

**DEPARTMENT OF PUBLIC SERVICE OPPOSITION TO CONSOLIDATED MOTION
FOR MODIFICATION OF THE SCHEDULE, INCLUDING RESETTING THE
EVIDENTIARY HEARING, AND ORDERING MEDIATION**

The Vermont Department of Public Service (“Department”) hereby opposes the October 7, 2019 Motion for Modification of the Schedule, Including Resetting the Evidentiary Hearing, and Ordering Mediation (“Motion”) filed by Consolidated Communications of Vermont, LLC d/b/a Consolidated Communications (“Consolidated”).¹

Consolidated is correct that a decline in the “cleared in 24” metric (“TC24”) has arisen over the last several weeks. During that time, the Department’s Consumer Affairs and Public Information Division (“CAPI”) saw an uptick in consumer complaints, but to a lesser degree than the same period of 2018. The Department cannot confirm that this is because the mean time to repair telephone service has not exceeded 48-50 hours, as posited by Consolidated. Motion ¶ 3. Regardless, a decline in the very metric that is the focus of this investigation is significant, and the reasons for that decline should be fully vetted during technical hearings scheduled to take place on October 11 and 14, 2019. A dip in Consolidated’s service quality metrics is simply repeating history, and holding technical hearings as planned, which will allow for detailed questioning, is the best means for further developing a detailed evidentiary record for the

¹ Consolidated did contact the Department prior to filing the Motion.

Commission to use in adjudicating the issues raised in this investigation. Given Consolidated's documented difficulties in meeting its service quality obligations, another procedural delay is not in the public interest.

Furthermore, the Department and its witnesses have relied upon the schedule as set by the Commission in its June 6, 2019 Order Modifying Schedule. To change the schedule at this point in time would cause unnecessary and costly disruption.

The Department also opposes Consolidated's request for mediation. While the Department recognizes the value of alternative dispute resolution, it is not the appropriate means of resolution for an investigation into service quality problems that are chronic in nature. The stated goals of Act 174 were to, among other things, increase transparency in Commission proceedings.² Utilizing mediation in this case would effectively undermine the transparency goals of Act 174 and further delay an investigation that has lasted almost a full calendar year, while consumers continue to receive substandard service with no public accounting for the reasons why. It would also result in both parties losing the opportunity to present evidence and testimony, to cross examine witnesses and advance their positions in a timely manner. Therefore, mediation in this matter is not in the public interest.

Furthermore, Consolidated's assertion that absent an agreement between the parties, any penalty assessed under 30 V.S.A. § 30 will be deposited into the State's general fund, is incorrect.³ As detailed in its prefiled testimony, the Department has proposed an alternative remedy of automatic bill credits that the Commission has authority to impose and, if adopted,

² See generally, Energy Development Improvement Act, No. 174 (2016), available at <https://legislature.vermont.gov/Documents/2016/Docs/ACTS/ACT174/ACT174%20As%20Enacted.pdf>

³ The Department notes that the Commission opened this investigation pursuant to 30 V.S.A. §§ 203 and 209, in addition to § 30.

will provide a compensatory resolution for Consolidated customers who continue to suffer from poor service quality.

For the foregoing reasons, the Department respectfully requests that the Commission deny Consolidated's Motion and proceed with the schedule as detailed in the Commission's June 6, 2019 Order Modifying Schedule.

DATED at Montpelier, Vermont this 8th day of October, 2019.

VERMONT DEPARTMENT OF PUBLIC SERVICE

By: /s/ Sarah L. J. Aceves
Sarah L. J. Aceves, Special Counsel
112 State Street
Montpelier, VT 05620
802-828-3167
sarah.aceves@vermont.gov

cc: Service List