



April 20, 2020

Mrs. Judith C. Whitney, Clerk
Vermont Public Utility Commission
112 State Street, 4th Floor
Montpelier, VT 05620-2701

**Re: Case No. 20-0703-PET (Vermont Legal Aid Request for moratorium)
Case No. 20-0789-INV (Vermont PUC response to COVID-19 pandemic)**

Dear Judy:

Eight Vermont rural local exchange carriers (the “Eight RLECs”)¹ offer the following comments concerning the Orders issued by the Commission on April 16, 2020, and on April 17, 2020, in the above-referenced matters.²

1. Case No. 20-0789-INV (PUC’s Response to Pandemic)

The Eight RLECs have reviewed the Commission’s two recent Orders in this case. These orders reference Governor Scott’s Executive Order (March 13, 2020) and Addendum 6 (March 24, 2020), which suspended most in-person construction operations during the period of the COVID-19 emergency, with certain defined exceptions, including for services or functions deemed critical to public health and safety and to economic and national security. In CPG Order #1, the Commission instructed Vermont public service companies that “a CPG is not a designation by the Commission that a project is critical” for purposes of the executive actions, and that a CPG “does not authorize any activities that are not in compliance with the Executive Order and Addendum 6.” The Commission indicated that “[o]nly a very small subset of Commission-approved projects would qualify under the Stay Home/Stay Safe order exception.”³

In CPG Order #2, the Commission clarified that its earlier order “does not require that the Commission specifically designate a particular project as critical infrastructure for that project to

¹ Franklin Telephone Company, Inc., Ludlow Telephone Company d/b/a TDS Telecom, Northfield Telephone Company d/b/a TDS Telecom, Perkinsville Telephone Company, Inc. d/b/a TDS Telecom, Shoreham Telephone LLC d/b/a Otelco, Topsham Telephone Company, Inc., Vermont Telephone Company, Inc. d/b/a VTel, and Waitsfield-Fayston Telephone Company, Inc. d/b/a Waitsfield Telecom, d/b/a Champlain Valley Telecom.

² Case No. 20-0703-PET, Order Requesting Comments on Potentially Extending the Temporary Moratorium on Involuntary Utility Service Disconnections (Apr. 16, 2020) (“Extension Request”); Case No. 20-0789-INV, Order Re Certificates of Public Good and Governor’s Emergency Declaration (Apr. 16, 2020) (“CPG Order #1”) & Order Clarifying Order Re Certificates of Public Good and Governor’s Emergency Declaration (Apr. 17, 2020) (“CPG Order #2”).

³ CPG Order #1, at 2 & 3.

continue construction.” After noting that the authorized list of critical services and functions “included ‘utilities and telecommunications infrastructure, and construction necessary to maintain that infrastructure,’” the Commission explained that “nothing in our April 16, 2020, Order would prohibit the buildout of broadband infrastructure that has obtained all required approvals.”⁴

The Eight RLECs thank the Commission for its guidance on these matters and in particular for the clarifications in CPG Order #2. During the period of the COVID-19 emergency, Vermonters’ access to broadband Internet service is critical to ensuring effective delivery of public information and to maintaining community, family, and commercial contacts at a time of mandatory social distancing. As providers of broadband services to residential and commercial customers in their respective service areas, the Eight RLECs continue to maintain and upgrade their networks and services during the current State of Emergency. In doing so, they are complying with social distancing requirements to the greatest extent possible, including, without limitation, (i) reducing the number of residential visits to only those necessary to initiate and restore service, (ii) outfitting their crews with personal protective equipment (PPE), and (iii) adapting their service installation procedures so as to avoid, to the extent possible, the presence of their crews on customer premises and to minimize personal contact between crews and customers.

In addition, the Eight RLECs are proceeding with previously identified broadband buildout projects to extend Internet access service to unserved or underserved locations. These projects are supported by funding from the federal Connect America Fund and (in most cases) from the Vermont High Cost Fund, and are undertaken pursuant to the Commission’s Orders designating the Eight RLECs as Eligible Telecommunications Carriers under 47 U.S.C. § 214(e), and, for most of the Eight RLECs, as Vermont-Eligible Telecommunications Carriers under 30 V.S.A. § 7515.⁵

Finally, the Commissioner of Public Service has asked all broadband providers in Vermont to act individually and cooperatively to extend service to all locations in Vermont as quickly as possible to ensure that Vermonters have Internet connectivity during the current COVID-19 emergency. The Eight RLECs appreciate the Commission’s assurance that the work needed to meet the Commissioner’s request, as well as to meet the Eight RLECs’ obligations under federal and state law, is in compliance with the Governor’s emergency orders.

2. Case No. 20-0703-PET (Moratorium on Disconnections)

In Orders issued on March 18, 2020, and March 27, 2020, the Commission granted requests from Vermont Legal Aid and the Department of Public Service for a temporary moratorium, until April 30, 2020, on utilities’ involuntary disconnections of residential and non-residential service for non-payment.⁶ In the present Extension Request, the Commission seeks comments on

⁴ CPG Order #2, at 1.

⁵ *Petition of the ten Vermont incumbent local exchange carriers for redesignation of each as Eligible Telecommunications Carriers in its respective Vermont service area under the Telecommunications Act of 1996*, Case No. 18-0470-PET, Order Extending Designation of Eligible Telecommunications Carriers (Vt. Pub. Util. Comm’n, Aug. 8, 2018), at 10-11; *Petition of Franklin Telephone Company, et al., for designation as Vermont-Eligible Telecommunications Carriers*, Docket No. 8416, Final Order (Vt. Pub. Serv. Bd., Dec. 16, 2016), at 10.

⁶ Order Granting Temporary Moratorium on Involuntary Natural Gas, Electric, and Telecommunications Service Disconnection (Mar. 18, 2020) (“Residential Order”), at 3 & f.n. 10; Order Expanding Temporary Moratorium on Involuntary Utility Service Disconnection to Non-Residential Ratepayers and Certain Water Companies and Establishing Additional Process (Mar. 27, 2020) (“Non-Residential Order”), at 4.

whether it should extend the temporary moratorium to May 31, 2020, in conjunction with Governor Scott's recent extension of the State of Emergency to May 15, 2020. The Eight RLECs do not oppose the proposed extension but offer the following comments to assist the Commission's decision-making.

Mechanism Needed for Recovery of Uncollectibles

The Eight RLECs follow the Commission's rules governing involuntary disconnection of residential and non-residential service for non-payment.⁷ During the present State of Emergency, the Eight RLECs have temporarily suspended involuntary disconnections as required by the Commission's Residential and Non-Residential Orders. As a consequence, each RLEC is likely to see an increase in the amount of uncollectible revenue on its books. Unlike electric utilities, the Eight RLECs cannot recover these lost revenues in future rate cases. Other than E911 service, switched access, and pole attachments, the Eight RLECs' services are no longer strictly rate-regulated under Title 30.⁸ Instead, rates for telecommunications and broadband services are set by a highly competitive marketplace, which includes competitive providers that are not subject to state regulation.

The Eight RLECs recognize the essential nature of telecommunications service during an extended state of emergency in which customers must maintain connectivity and transition many social and commercial activities to online platforms. But extending the moratorium will also further increase uncollectibles for the Eight RLECs. Unless the State authorizes a way for the RLECs to recover the bad debt incurred during the present moratorium, the lost revenues will not be available to the Eight RLECs to invest in network infrastructure, including in the extension of broadband service to unserved and undeserved locations in their service areas. Unlike their unregulated competitors, the Eight RLECs have broadband buildout obligations both as federally-designated ETCs for purposes of the Connect America Fund and as VETCs for purposes of the Vermont High Cost Fund. Without a revenue recovery mechanism, the Eight RLECs' ability to continue meeting their broadband buildout obligations is likely to be impaired.

The Eight RLECs see two potential sources of funding for such revenue recovery: (1) the federal funding being provided to Vermont under the Coronavirus Aid, Relief, and Economic Security ("CARES") Act of 2020; and (2) the Broadband Innovation Grant program that was established in 2019 for communications union districts ("CUDs"), but which is largely going unused at present while CUDs begin to become established.

The Eight RLECs have been tracking the costs incurred and uncollectible revenues booked as a result of their response to COVID-19, so that the companies will be able to document their efforts in the event the State establishes a recovery mechanism for such purposes.

Concerns About Restarting Disconnections After the Moratorium

As the Eight RLECs look ahead to the end of the Commission's moratorium on involuntary disconnections, they are concerned about the process for restarting the disconnection process, particularly for residential customers who have become delinquent. The Commission has

⁷ See Commission Rules 7.620-7.622.

⁸ 30 V.S.A. § 227d.

provided guidance on establishing the moratorium but has offered little in the way of direction for terminating the moratorium.

As is commonly known among service providers, there is generally a readily identifiable set of residential customers who are habitually at risk of involuntary disconnection from service; these customers were in arrears prior to the Governor's Declaration of Emergency, and they have become even more delinquent during the State of Emergency. At the same time, there is a growing population of customers who have not habitually presented delinquency issues and who were current in their payments at the time the State of Emergency began but who now find themselves falling behind in payments because of the economic disruption caused by the COVID-19 pandemic.

The Eight RLECs believe it is important, as part of this proceeding, to acknowledge that, when the moratorium ends, many customers whose essential telecommunications services have been maintained without payment may not be in a financial position to resume payments and to repay arrearages that have accrued during the moratorium. While the RLECs would prefer not to disconnect any customer whose account has become delinquent because of financial hardship attributable to the pandemic, the RLECs do expect to begin disconnection proceedings for habitually delinquent customers once the Commission's moratorium has expired. To distinguish between customers whose delinquencies would likely have occurred without the pandemic and those whose delinquencies are plainly pandemic-related, the Eight RLECs are likely to rely on customers' credit histories and other indicia of creditworthiness from customer accounts.

The Eight RLECs would also like to see a program established for debt relief or even debt forgiveness for otherwise creditworthy customers who have amassed significant utility arrearages during the period of the present moratorium. In particular, the Commission should consider establishing a source of funds to help low-income families to bring their utility accounts current and to reimburse providers for the cost of service provided to families of school-age children for distance-learning initiatives during the State of Emergency. As with the mechanism for cost-recovery for providers proposed in Section 1 above, the Eight RLECs would look to federal CARES funding or to the State's untapped Broadband Innovation Grants as possible sources of funding for debt relief for residential utility customers.

The Eight RLECs are grateful to the Commission for this opportunity to offer the foregoing comments on these important matters.

Please let me know if you have any questions.

Sincerely,



Paul J. Phillips

cc: ePUC Service Lists, Case No. 20-0703-PET & Case No. 20-0789-INV