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August 12, 2020

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

Re: Case No. 8585; Notice of Status Conference and Proposed Billback

Dear Ms. Whitney:

Please find enclosed a copy of correspondence previously sent to the Public Utility Commission regarding its proposed billback of court reporter fees to the Respondent in the above-referenced action (Attachment 1). I am providing these letters to the Commission again because the August 10, 2020 Notice of Status Conference states that the Commission intends to bill Respondent for the costs of court reporting services for that hearing. The billback is unlawful.

As the Commission has been made aware previously, Vermont law does not authorize the Commission to billback the costs of this proceeding to Respondent; the law limits the Commission's billback authority to "the applicant or company or companies involved." 30 V.S.A. § 21(a). The Respondent in this proceeding is neither an applicant nor a company. Therefore, the plain language of the billback statute does not allow the Commission to charge any individual person for court reporter or other costs incurred in connection with a penalty proceeding under 30 V.S.A. § 30.

Notwithstanding the undisputed fact that Respondent is not a company nor applicant in this proceeding, the Commission's bills to Respondent cite the Commission's authority to hire a court reporter whose costs may be "reimbursed by the company," citing 30 V.S.A. §§ 20 and 21. See, e.g., Attachment 2. Although a "person" may be a

company under Vermont law, see 1 V.S.A. § 128, a company is not a person unless so defined by statute. For example, when used in chapter 5 of Title 30, the term “company” includes individual persons. 30 V.S.A. § 201. By its own terms, however, chapter 5’s definition of “company” does not apply to the provisions of chapter 1, including the Commission’s billback authority under 30 V.S.A. § 21.

The Commission’s repeated attempts to treat Respondent as a company (or an “applicant”) for the purposes of billback are *ultra vires*. Respondent is not liable under 30 V.S.A. § 21 for any costs incurred by the Commission in this proceeding.

This letter and the accompanying documents have been electronically filed using ePUC.

Very truly yours,



Leslie A. Cadwell

Enclosure(s)

Cc: ePUC

