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September 8, 2020

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

Re: Case No. 8585
Respondent's Supplemental Filing on Scheduling & Hearing

Dear Ms. Whitney:

Please accept this letter for filing on Respondent's behalf in the above-reference matter and in accordance with the Hearing Officer's authorization during the August 18, 2020 status conference.

Respondent requests a hearing to be held in person and not until the present State of Emergency due to the COVID-19 has been lifted. Further, the Commission should not hold a hearing until it determines the scope of said hearing because the preliminary summary judgment decision leaves several legal questions open, such as the applicability of 30 V.S.A. § 248 to Respondent's installation and whether the scope of the Commission's authority under 30 V.S.A. § 246 empowers it to order Respondent to remove the facility from his property. Respondent refers the Commission to his March 27, 2020 submission in which he restated his request for hearing and noted the various legal issues that must be resolved via factual development from witnesses for the government parties.

The use of a commercial video conferencing software to hold an evidentiary hearing presents unique issues in this case. Unlike other cases, the scope of the hearing is not determined, and the government parties have not prefiled any evidence to support their

contentions. Further, the government parties do not intend to offer any evidence at the hearing. Therefore, to address factual issues raised by the parties in other filings, Respondent is forced to subpoena witnesses with relevant evidence to appear and provide sworn testimony. Respondent explained the need for these witnesses in the aforementioned March 27 filing.¹ It is not clear how to issue and enforce a subpoena for a non-cooperating witness to appear at an evidentiary hearing to be held via a commercial video conferencing program like GoToMeeting.

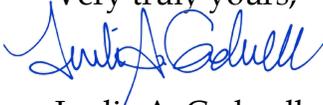
If the Commission decides to proceed with an evidentiary hearing via GoToMeeting Respondent is entitled to the procedural protections afforded by V.R.C.P. 43.1.

Finally, Respondent has considered the Hearing Officer's suggestion about exploring an informal resolution of this matter while preserving Respondent's right to appeal any liability determination that the Commission ultimately may make. Last week, I transmitted a proposed written settlement agreement to the parties their consideration. I expect to get some feedback on the proposal by the end of this week.

This this letter has been electronically filed using ePUC.

Thank you for your assistance and attention to this filing.

Very truly yours,



Leslie A. Cadwell

Cc: ePUC

¹ Counsel for Respondent understands that the Agency of Natural Resources will consider stipulating to the admission of certain discovery responses so there may be no need to subpoena the Agency's witness to authenticate discovery responses that Respondent wishes to offer into evidence.

