

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Docket No. 8585

Investigation into Meteorological Tower at 700
Kidder Hill Road in Irasburg, Vermont

DEPARTMENT OF PUBLIC SERVICE'S RESPONSE TO THE HEARING OFFICER'S PROCEDURAL ORDER

On October 29, 2020, the Hearing Officer issued a Procedural Order Re Evidentiary Hearing requesting that the parties discuss the need for an evidentiary hearing, potential agreement on the production of witnesses, and potential agreement on documents to be admitted into the evidentiary record. The Hearing Officer requested that the parties submit the results of those discussions by November 16, 2020.

On November 16, 2020, the Department of Public Service ("Department") requested an extension of the November 16 deadline to November 24 to provide additional time for the parties to confer on the outstanding issues in this case. The Hearing Officer granted the Department's request on November 17, 2020.

The Department reports that it was unsuccessful in reaching an agreement with the Respondent on the issues outlined in the Hearing Officer's order. The Respondent has indicated his continued request for an evidentiary hearing and intention to produce and examine Andrew Perchlik at the hearing. The Department anticipates it will oppose Respondent's subpoena of this witness.

Additionally, the Department was unsuccessful in reaching an agreement with Respondent for the stipulation of documents previously filed in this case into the evidentiary record. Respondent's counsel has indicated Respondent will not stipulate to the admission of Respondent's own pre-filed testimony or discovery responses – documents previously filed in ePUC that contain necessary statements and admissions by a party opponent that form the basis for the Department's position in this matter and the Hearing Officer's finding of liability on summary judgment.

As the Respondent is unwilling to stipulate to the admission of his pre-filed testimony, affidavits, and discovery responses, the Department anticipates requiring approximately 20 minutes to examine the Respondent for identification of the Respondent's filings in this case. The Department will examine the Respondent at the evidentiary hearing for the limited purpose of identifying and moving for the admission of the following documents into the evidentiary record:

Exhibit	Description	Date Filed
David Blittersdorf		
Direct Prefiled Testimony	Testimony by Respondent	Feb. 8, 2016
Direct Prefiled Testimony	Testimony by Respondent	Dec. 18, 2015
Exhibit DB-1	Respondent's Resume	Dec. 18, 2015
Exhibit DB-2	Photos of Equipment	Dec. 18, 2015
Exhibit DB-3	Grant Agreement	Dec. 18, 2015

Affidavit	Respondent's Affidavit	August 11, 2016
Affidavit	Respondent's Affidavit filed with Respondent's Response to Motion for Summary Judgment	July 28, 2016
Respondent's Answers to DPS and ANR's 1 st Set of Info Requests	Discovery Response	Feb. 8, 2016
Respondent's Answers to ANR's, DPS', & Irasburg's 2 nd Set of Info Requests	Discovery Response	March 25, 2016
Respondent's Answers to HO's Information Requests	Response to HO's Request	July 19, 2019

The Department respectfully requests an opportunity to examine the Respondent at a scheduled evidentiary hearing for the limited purpose of admission of the Respondent's filings in this matter.

DATED at Montpelier, Vermont this 24th day of November 2020.

Respectfully submitted,

VERMONT DEPARTMENT OF PUBLIC SERVICE

By: /s/ Eric B. Guzman

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cc: ePUC Service List