

231052-67

Date Sent: Tuesday, August 05, 2008 9:05 AM
From: "Ken Schatz" <KSchatz@ci.Burlington.vt.us>
To: Linda Blanchard <LBlanchard@ci.Burlington.vt.us>
Cc: <wellis@mcneilvt.com>
Subject: FWD: BT CPG Amendment

Attachment(s): memo of understanding pilt 7-29-08.doc,
Resolution - Amend Condition 17 of CPG 7-29-08.doc

The attached Resolution was approved by the BOF last night to go on the CC agenda for 8/11. The Memorandum of Understanding does not need to go to the City Council.

Ken

----- Forwarded Message -----

From: BILL <wellis@mcneilvt.com>
To: "Leopold, Jonathan" <jleopold@ci.burlington.vt.us>,
"Schatz, Ken" <kschatz@ci.burlington.vt.us>
Cc: athibeault <athibeault@burlingtontelecom.com>,
cburns <cburns@burlingtontelecom.com>,
mflora <mflora@burlingtontelecom.com>
Subject: BT CPG Amendment

Jonathan and Ken,

Attached please find drafts of a City Council resolution regarding amending Condition 17 of BT's CPG and an MOU between BT and the CAO re: PILT.

I also located my previous opinion on the applicability of Section 109 of Title 30 to financings, which was as follows:

"This firm's opinion is that the capital lease between the City and Koch Financial does not constitute a "lease" under Sections 109 and 232 of Title 30, Vermont Statutes Annotated and, therefore, Condition 3 of the CPG is not triggered by the City's plans to borrow additional funds from Koch. When read in their entirety, the plain language of Sections 109 and 232 require Board approval for sales, leases or other transfers of 10% or more of a regulated utility's property to another entity within a calendar year. They do not apply to the subject capital lease because it does not amount to a conveyance of title to BT's property to another entity. See *Kruee v. F.C. Huyck & Sons*, 121 Vt. 299 (1959) (holding that section 109's predecessor requires Board approval to "convey a clean and marketable title . . ."). Condition 3 applies only to situations where BT transfers its physical assets, including those subject to the capital lease with Koch, to another entity. Since no transfer or conveyance is involved, Condition 3 of the CPG is not triggered."

I will stick by this opinion.

I believe this is everything on my list from this morning's meeting. I will work with Amber to prepare a petition for filing with the PSB by September 13, 2008.

William F. Ellis, Esq.
McNeil, Leddy & Sheahan
271 South Union Street
Burlington, VT 05401

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E-mail: wellis@mcneilvt.com

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Date Sent: Thursday, August 14, 2008 12:22 PM
From: wellis@mcneilvt.com (BILL)
To: "Burns, Christopher" <cburns@burlingtontelecom.com>,
"Thibeault, Amber" <athibeault@burlingtontelecom.com>,
Ken Schatz <KSchatz@ci.Burlington.vt.us>
Subject: RE: FWD: Jones

Amber,

I am not sure how many of these types of complaints ("escalations" from the DPS) that BT has received over the past three years, if any, and whether a cursory response as you suggest would be acceptable to the DPS under the circumstances. I suggest we answer the questions to the best of our ability: BT does plan to extend service to this area, but not by September 2008. BT is presently preparing a petition to amend its CPG concerning the build out of the remainder of the City, and this customer's location will be among those sections that will be addressed in that proceeding. If a survey has been conducted, say so, and if not, say so and why.

I would be more than happy to review whatever response you prepare before sending it out. Please note I will be out of the office next week delivering my baby to college.

On the facsimile you sent over the other day--any reason to push back on the DPS's determination that the map cannot be treated as confidential? They gave BT 10 days to respond.

==== Original Message from "Thibeault, Amber"
<athibeault@burlingtontelecom.com> at 8/13/2008 3:58 pm
>Ken/Bill,

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>This is a state complaint (from DPS) I received today from a potential
>customer who has spoken to the Mayor's office recently regarding service
>to the mobile home park off North Avenue - Avenue C. This is one of the
>areas that we are asking not to build out until revenues afford such an
>opportunity. I am inclined to tell the Department that we are currently
>working on an amendment to our CPG which will address this area of the
>City. Any thoughts?

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>Thanks,

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>
>Amber Thibeault

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>
>Contract and Governmental Affairs Specialist

>
>Burlington Telecom

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>200 Church Street, Suite 101

>
>Burlington, VT 05401

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>Office: (802) 846-5031

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>Mobile:(802) 233-5386
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>Fax: (802) 652-4220

>

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>From: Eriksen, Sunni [<mailto:Sunni.Eriksen@state.vt.us>]

>Sent: Wednesday, August 13, 2008 3:26 PM

>To: Thibeault, Amber

>Subject: Jones

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>EMAIL

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>Vermont Department of Public Service

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>Consumer Complaint Summary, Case Number 147607

>

>August 13, 2008

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>To: Amber Thibeault, Burlington Telecom

>

>Email address: athibeault@burlingtontelecom.com

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>From: Sunni M. Eriksen

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>CC:

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>Reply to:

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>Thank you for your assistance as we investigate this consumer complaint.
>Below is a summary of the information provided us by the consumer,

>followed by the Department's request for action or information. We look
>forward to receiving your response.

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>Summary of Information from Consumer:

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>Consumer is a retired, disabled veteran. He lives in a mobile home, has
>been inquiring about obtaining television service at his home. The
>current line extension is 200 feet away from his home. He was told BT
>would make the line extension to his home in the spring. The mobile home
>park has 100 homes, many of which are interested in receiving service.

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>There has been no action toward extending the line. He has called
>several CSR's and they told him to call all his friends to keep
>requesting. He is told that there is no other information available.

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>He wants to know what the timeline is for installation.

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>Action Requested by DPS:

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>Hello,

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>Please provide information on this consumers location. Are there any
>plans in place to extend service to his area? Has a survey been
>conducted there to determine potential consumers? If so, when was it
>conducted and what were the results? Any additional information would be
>appreciated.

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>Thanks,

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>Sunni M. Eriksen
>
>Vermont Department of Public Service
>
>Consumer Affairs and Public Information Division
>
>112 State Street
>
>Montpelier Vermont 05620
>
>802.828.3081
