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<u>MEMORANDUM</u>

271 SOUTH UNION STREET BURLINGTON, VERMONT 0540:

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(*ALSO ADMITTED IN N.Y.)

TO:

Brendan Keleher, CAO

Timothy Nulty, Project Manager

FROM:

William F. Ellis, Esq.

DATE:

September 19, 2005

RE:

BT Certificate of Public Good

The Public Service Board issued its Final Order and Certificate of Public Good on September 13, 2005, a copy of which is enclosed herewith. It is subject to appeal to the Vermont Supreme Court within thirty (30) days, which I do not anticipate. In the unlikely event that there is an appeal, the CPG remains operative unless and until the Board or the Vermont Supreme Court issues a stay, which also is unlikely.

The Board adopted the Hearing Officer's proposal with several modifications. Please review pages 45-47 of the Order for the Board's discussion. Of particular note is the modification of condition 60, which no longer allows advances by the City equal in size to available outside financing. Also of note are the modifications to conditions 58 and 59, which requires the through the Phase III expenditures from January 1, 2002.

BT staff should review the CPG in detail to ensure familiarity with the terms of its license to operate. My listing below of several important conditions should not serve as a substitute of a complete, thorough review of the CPG.

Conditions 7 & 12:

BT needs to have tariffs filed with the Board and Department of Public

Service ("DPS") 45 days before their effective date.

Condition 13

BT needs to notify the Board and the DPS 45 days prior to any change in

rates or terms of service.

Condition 15:

BT needs to file annual reports with the Board and DPS.

Condition 17:

Network needs to be built to pass every residence and business by

September 13, 2008.

Brendan Keleher, CAO Timothy Nulty, Project Manager September 19, 2005 Page 2 of 2

Condition 29:

PEG contracts must be filed with Board and DPS within 30 days of their

execution.

Condition 30:

Advisory Council must be formed and meet for the first time by January

11, 2006.

Condition 41:

A service quality plan in conformance with Attachment B must be filed

with the Board prior to becoming effect. BT must also begin preparing

quarterly monitoring reports.

Condition 54:

BT must submit disconnection notice to Board for approval by November

13, 2006.

Condition 57c:

City must have tracking mechanism in place for BED's processing of pole

attachment applications by October 13, 2005, and submit quarterly

reports thereon throughout 3-year construction period.

Condition 58:

Need to have in place a separate Chart of Accounts consistent with BT's

establishment as an enterprise fund by October 13, 2005.

Condition 59:

City must prepare a Cost Allocation Manual.

Condition 61b:

Need to file PILOT agreement between BT and City by November 13,

2006.

5

Condition 63:

BT must obtain appraisal of School Department property.

Please let me know if you have any questions or require further assistance in connection with this matter.