

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7044

Petition of City of Burlington d/b/a Burlington Telecom)
to amend Conditions No. 17 of its Certificate of Public)
Good, enlarging the date by which it must complete)
its system build out)

AMENDED PETITION

By this Amended Petition, the City of Burlington d/b/a Burlington Telecom, represents:

1. It holds a Certificate of Public Good ("CPG"), issued in Docket No. 7044, to operate a cable television system in the City of Burlington, Vermont and as such is subject to the Vermont Public Service Board's ("Board") jurisdiction.

2. Condition No. 17 of its CPG requires Burlington Telecom to "build its network to serve every residence, building and institution in the City of Burlington within thirty six (36) months of the date of [the] CPG" that was issued on September 13, 2005.

3. Condition No. 60 of its CPG provides:

The City shall make payments on behalf of Phase III only when and to the extent that Phase III has cash reserves, revenues receivable, or other payments receivable that, collectively, equal or exceed the sum of the payments to be made by the City plus the balance of any other current payments owed to the City. BT may participate in the City's pooled cash management system, provided, however, that BT shall reimburse the City within two months of the City's expenditure for any expenses incurred or payments made by the City in support of services that BT provides to non-City entities. The City shall obtain Board approval prior to appropriating any funds other than as described above in the support of BT's Phase III activities.

4. As of September 13, 2008, Burlington Telecom had built its network to serve the vast majority of the residences, buildings and institutions in the City of Burlington.

5. Burlington Telecom's recently completed audit identified 3,180 service addresses that presently are unable to take service from BT.

6. Of these 3,180 service addresses, approximately fifty (50%) percent are located on private rights-of-way where BT's system passes within 300 feet.

7. Burlington Telecom is ready, willing and able to serve these private properties provided the property owners are willing to pay the cost differential between the cost of Burlington Telecom's standard drop and the actual cost of construction.

8. Upon information and belief, Comcast of Connecticut/Georgia/Massachusetts/New Hampshire/New York/North Carolina/Virginia/Vermont, LLC ("Comcast") also provides cable television service within the City of Burlington, including the service addresses that are presently unable to take service from Burlington Telecom.

9. Upon information and belief, the remaining service addresses have not been denied cable television services in that they presently have access to service provided by Comcast.

10. The remaining service addresses present challenging installation conditions in locations of the City which contain ledge and rock, which are more time consuming than other areas of the City and cost more to build than expected at the time the CPG was issued.

11. Burlington Telecom requires temporary relief from Condition 60's limitation on the manner in which the City may finance BT's operations in order to complete the build out of the remainder of the City in a cost effective manner.

12. Burlington Telecom also requires an amendment to Condition No. 17 removing the obligation to complete the build out by a date certain, and replacing it with

the requirement that Burlington Telecom will build out the remaining sections of the City of Burlington as revenues provide.

In support of this Amended Petition, Burlington Telecom submits the following:

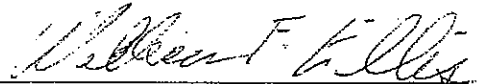
1. Prefiled Supplemental Testimony of Christopher W. Burns;
2. Prefiled Testimony of Nicholas P. Miller;
3. Prefiled Testimony of Jonathan P.A. Leopold, Jr.; and
4. Exhibits BT-2 through BT-8.

WHEREFORE, Burlington Telecom respectfully requests that the Board:

- A. Schedule a status conference at which a schedule for completing the investigation of the issues raised by this Amended Petition may be determined; and
- B. Take such other actions as and or may be necessary to amend Condition No. 17 and provide temporary relief from Condition No. 60 of Burlington Telecom's Certificate of Public Good.

Dated at Burlington, Vermont this 30th day of September 2009.

CITY OF BURLINGTON

BY: 

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