

1
2 **Resolution Relating to**

RESOLUTION
Sponsor(s): Councilors Keogh,
Shannon & Paul: Blue Ribbon Com.
Introduced: 10/17/11
Referred to: _____
Action: _____
Date: _____
Signed by Mayor: _____

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7 CITY OF BURLINGTON
8 BURLINGTON TELECOM PROPOSAL
9 CURE OF CONDITION 17 VIOLATION
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11
12 **CITY OF BURLINGTON**

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14 In the year Two Thousand Eleven.....
15 Resolved by the City Council of the City of Burlington, as follows:

16
17 That WHEREAS, the City of Burlington d/b/a Burlington Telecom ("BT") received a
18 Certificate of Public Good ("CPG") from the Vermont Public Service Board ("PSB") in
19 September 2005 to operate a cable television system; and

20 WHEREAS, Condition 17 of the CPG required BT to build its network to serve every
21 residence, building and institution in the City within 36 months of the issuance of the CPG; and

22 WHEREAS, BT did not build its network to serve the entire City by September 2008,
23 and the PSB has found BT in violation of Condition 17 by Order dated October 8, 2010; and

24 WHEREAS, the PSB also found BT in violation of Condition 60 of its CPG by incurring
25 a debit to the City's pooled cash management system of \$16.9 Million, which remains
26 outstanding; and

27 WHEREAS, the PSB's finding of violations of Conditions 17 and 60 has triggered BT's
28 statutory right to a reasonable opportunity to cure the violations; and

29 WHEREAS, since issuance of the CPG, state law and PSB rules have changed so that a
30 cable television company is not obligated to overbuild where another cable company has
31 previously built a cable television system; and

32 WHEREAS, BT's revenues are insufficient to both build out the remaining areas of the
33 City and repay the \$16.9 Million debt to the cash pool; and
34

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ORIGINAL

DISTRIBUTION:

I hereby certify that this resolution has been sent to the following department(s) on

RESOLUTION RELATING TO

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Adopted by the City Council

....., 20.....

..... Clerk

Approved....., 20.....

..... Mayor

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36 **Resolution Relating to** CITY OF BURLINGTON
37 BURLINGTON TELECOM PROPOSAL
38 CURE OF CONDITION 17 VIOLATION

39
40 WHEREAS, BT proposes to cure its violation of Condition 17 by seeking PSB approval
41 of an amendment removing the obligation to build out the entire City and replacing it with a line
42 extension tariff consistent with PSB rules; and

43 NOW, THEREFORE, BE IT RESOLVED that the City Council hereby adopts a line
44 extension tariff consistent with PSB Rule 8.313 in the form attached hereto; and

45 BE IT FURTHER RESOLVED that BT is authorized to seek PSB approval of an
46 amendment to Condition 17 of its CPG to remove the obligation to build out the entire City and
47 replace that obligation with the line extension tariff; and

48 BE IT FURTHER RESOLVED that the City is committed to pursuing a business plan
49 that includes a full build out of the City as long as a full build out is commercially feasible
50 and BT is financially viable throughout that process.

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CABLE SERVICE TARIFF

OF

CITY OF BURLINGTON D/B/A BURLINGTON TELECOM

This tariff contains the line extension policy of the City of Burlington d/b/a ("BT" or "Company") throughout its service territory.

This tariff is on file with the Vermont Public Service Board ("VPSB") and copies may be inspected during normal business hours at the VPSB and at the Company's principal place of business.

ISSUED: _____, 2011

EFFECTIVE: _____, 2011

BY:

Stephen Barraclough – Interim General Manager

SECTION 1 – DEFINITIONS

CIAC: Contribution-in-aid-of-construction for video cable services, as outlined in VPSB Rule 8.313.

Company: City of Burlington d/b/a Burlington Telecom, the issuer of this tariff.

CPG: Certificate of Public Good, as issued by the Vermont Public Service Board.

Customer: A person receiving service from the Company and who is responsible for bill payment of such service.

Custom Installation: Any Customer requesting an installation other than as described in these definitions as a normal installation, including but not limited to an underground installation. A Customer requesting a custom installation shall be granted a credit equal to the cost of a 300' aerial drop.

Initial Subscriber: A person who contributes to the original CIAC line extension.

Installation: Normal installation is an overhead (aerial) cable requiring up to three hundred (300) feet of cable plant from the distribution line to the Customer's premises or ground block. Drops in excess of this length, any concealed wiring or other custom installation work, and all underground drops, shall be charged at the Company's Labor and Materials rates.

Labor and Materials: Invoice cost of all materials plus labor charges and overhead costs.

Line Extension: An addition to the existing distribution system into previously uncabled areas.

Materials Rate: The invoice plus overhead cost of the materials used to provide service.

New Subscriber: For purposes of this line extension tariff, a person who does not contribute to the original CIAC line extension.

Original Participant: See Initial Subscriber.

Point of Demarcation: Point located twelve (12) inches outside the Premises. The Customer is responsible for all wiring-related equipment and cable wiring from the Premises up to the point of demarcation.

Premises: The address to which the Company provides services.

Pre-wiring: Installing cable in a structure under construction prior to closing of walls. Charge includes outlet box and service cable to each outlet from a central distribution point.

Subscriber: See Customer.

Underground Installation: Refers to placing or burying of cable below ground level. Any underground installation is a custom installation.

Verified Customer: A person whose residence is in an unserved area who makes a binding commitment to purchase cable service from the Company for a minimum period of two (2) years, or a lesser period required by the Company, or pays an amount equivalent to one year of service in advance.

VPSB: Refers to the Vermont Public Service Board.

SECTION 2 – LINE EXTENSION POLICY

- 2.1 Cost-Sharing Formula:** The Company shall provide line extensions at no additional cost to potential customers if there is a density of 16 equivalent year-round residences of verified subscribers per mile, starting at the nearest serviceable end of the existing coaxial distribution system. The nearest serviceable end is defined as the location of the nearest coaxial plant where a tap can be cut to serve the customer. Applicants requesting a line extension for service into areas where “homes per mile” is less than 16 shall pay a contribution-in-aid-of-construction (CIAC) to be computed under the following formula:

$$A = \frac{C_T}{N} \left(1 - \frac{N}{16 * L} \right)$$

- A = dollar contribution from each new customer;
- C_T = actual cost of the line extension;
- N = the number of verified Customers on the extension who will be participating in the CIAC;
- L = the length of the extension in miles, via a pole line, from the nearest point on the existing system. The length of the extension shall be measured by determining the total amount of cable-bearing strand needed to serve an uncabled area.

- 2.2 Minimum Service Period:** The minimum service period required for an applicant requesting a line extension is two (2) years.
- 2.3 Site Surveys:** Upon request, the Company shall conduct a site survey to determine the cost of bringing cable service to a prospective subscriber or subscribers. The Company shall inform each of the prospective subscribers of the contribution-in-aid-of-construction that may be charged. If there is a designated community organizer, the Company shall provide the designated community organizer with appropriate information such as the cost of the extension, how the Company’s line extension policies work, product information, and construction time frames.
- 2.4 Timeframe for Site Surveys and Estimates:** The Company shall provide a preliminary estimate within fifteen (15) business days from receipt of a request. If requested by the subscriber, the Company shall provide a final estimate within thirty (30) business days of receiving written approval of the preliminary estimates by all included subscribers. Where site surveys involve a non-conventional extension of more than three (3) ends of line and twenty (20) verified subscribers, the Company may have thirty (30) business days to provide an initial estimate and sixty (60) business days to provide a final estimate..
- 2.5 Standard Drop:** Unless otherwise requested, the cost estimate shall use a standard aerial drop of three hundred (300) feet from the pole for each dwelling serving each verified subscriber.

SECTION 2 – LINE EXTENSION POLICY, (CONT'D.)

- 2.6 Non-Standard Drops and Installations:** Each verified subscriber shall be responsible for its own additional costs for installation of any non-standard service drop unless participating verified subscribers and the Company agree to divide the cost of non-standard service drops among the group of verified subscribers requesting service.
- 2.7 Pole Licensure:** The Company shall apply for any necessary pole attachment agreements within thirty (30) days of receipt of the contribution-in-aid-of-construction from all verified subscribers. Cable service shall be made available within ninety (90) days from the receipt of pole attachment agreements and other necessary easements and subject to weather, Force Majeure, and the performance of make ready.
- 2.8 Expansion of Service:** Nothing in this tariff shall require the Company to expand service in the absence of a request from one or more verified subscribers.
- 2.9 Overbuilds:** Nothing in this tariff shall require the Company to overbuild another company, or provide cable service to locations where another cable company has already constructed facilities or to which another cable company is required by rule or order of the Board to construct facilities, or to locations where another cable company has made a binding commitment to construct facilities within the next eighteen (18) months.
- 2.10 Rebates:** For a period of seven (7) years from the completion of a line extension, contributions from new customers connecting to a customer-financed line extension shall be based upon an equal sharing of the full cost of construction of the line extension as if the new customers were original participants.

Contributions shall be calculated and reimbursed to the original participants based upon an equal sharing of the full cost of the CIAC as if the new customers were original participants, except that:

- (a) All line extension reimbursements shall be paid by the Company to the current owners of the dwellings or structures served by line extensions that are subject to reimbursement payments for new connections, and shall be paid as a cash rebate or, if to a current subscriber, cash or a credit, at the subscriber's choice.
- (b) Reimbursements may be made at any time, but a final reallocation and reimbursement shall be conducted at the end of a seven (7) year period.
- (c) No reimbursement shall be required if the computed amount is less than \$100.

When calculating contributions or reimbursements under this section, the original full cost of construction may be depreciated at a straight-line rate of up to fifty percent (50%) at the end of the seven (7) year period. Depreciation for these purposes, if any, shall be calculated similarly for both contributions and reimbursements and applied as of the date of connection of new customer(s).