

State of Vermont
Department of Public Service
112 State Street
Drawer 20
Montpelier, VT 05620-2601
TEL: 802-828-2811

FAX: 802-828-2342
TTY VT: 800-734-8390
email: vtdps@state.vt.us
<http://publicservice.vermont.gov/>

April 23, 2010

Susan M. Hudson, Clerk
Vermont Public Service Board
112 State Street
Montpelier, VT 05620-2701

RE: Docket No. 7044 – Schedule

Dear Mrs. Hudson:

This responds to your Memorandum of April 2, 2010, requesting the parties to seek agreement on a proposed schedule for this docket, or present their own recommendations for moving forward. The proposed schedule below has been discussed with counsel for Comcast and the City of Burlington (City), but we understand that they will be filing separate comments.

The City has filed responses to the DPS's Fourth Set and Confidential Fourth set of Information Requests; any issues or omissions related to the responses have been, and we expect will continue to be, resolved by counsel's cooperation. The Department's consultants, Larkin & Associates (Larkin), are continuing their investigation¹ and expect to schedule an on-site visit in late May.² We expect the Larkin report to be completed by mid- to late June and to be filed with the PSB no later than the Department's testimony. Prior to completion of that report DPS plans to depose City witness Jonathan Leopold; notice of that deposition will be forthcoming.

The DPS proposes the following litigation schedule:

May 14, 2010	Motions for Summary Judgment filed
June 14	Responses to Motions

Following issuance of an order on summary judgment, parties to file proposed schedule(s) for remainder of docket, or request a status conference.

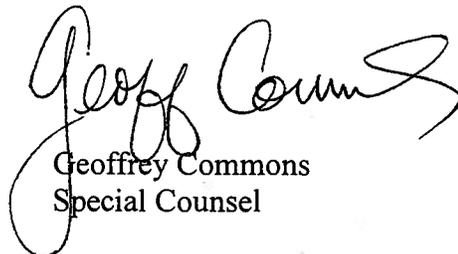
¹ Undersigned DPS counsel has referred to Larkin's work in this case as a "forensic audit." While this description appears to be accurate in a layperson's lexicon, Larkin has advised that "forensic audit" has become a specialized term of art in the accounting profession, and that their work should not be so described. To avoid any future confusion on the part of parties, the Board, or the public, Larkin's scope of work is attached. Counsel apologizes for any confusion caused by this error.

² Specific dates for the on-site work will be arranged by counsel for DPS and the City.



Thank you for your attention to this matter. Please let me know if any additional information would be helpful.

Sincerely,

A handwritten signature in black ink, appearing to read "Geoff Commons". The signature is fluid and cursive, with the first name "Geoff" written in a larger, more prominent script than the last name "Commons".

Geoffrey Commons
Special Counsel

Enclosure

cc: (w/enc.): service list

ATTACHMENT A
Specifications of Work to be Performed

Summary Scope of Work

Performing accounting/auditing services to assist the DPS in its investigation of Burlington's Telecom (BT) violation of condition # 60 of their CPG to determine when the violation first occurred and to what extent. In addition to determine the source of the funds BT borrowed from the City of Burlington and identify the nature of the expenditures of the funds.

Detailed Scope of Work

Investigate Burlington Telecom's ("BT") financial and accounting records to determine when BT first violated condition # 60 of their CPG which requires BT to repay any loans from the City of Burlington ("City") within 60 days.

Investigate Burlington Telecom's ("BT") financial and accounting records to determine the total amount of money BT has borrowed from the City of Burlington including current balance BT owes the City, and whether it is backed by BT receivables.

Investigate City of Burlington's and Burlington Telecom's ("BT") financial and accounting records to determine the source of funds the City provided to BT.

Investigate City of Burlington's (including all Departments, e.g. Burlington Electric Department) and Burlington Telecom's ("BT") financial and accounting records to determine if City or other City Department funds were used to support BT.

Investigate Burlington Telecom's ("BT") financial and accounting records to determine the total amount of money BT has repaid the City, and determine if this amount has been interest or principal payments.

Investigate Burlington Telecom's ("BT") financial and accounting records to determine the estimated monthly cash flow requirements that BT needs to cover its operating and debt service expenses as compared to its monthly revenue.

Investigate Burlington Telecom's ("BT") financial and accounting records to determine if BT is still borrowing money from the City or another entity to cover its operating or debt service expenses.

Investigate Burlington Telecom's ("BT") financial and accounting records to determine the nature and extent of any commingling of BT funds with City funds.

Investigate Burlington Telecom's ("BT") financial and accounting records to determine if the City has used any of BT's capital or operating revenues for City cash needs or operations.

Investigate Burlington Telecom's ("BT") financial and accounting records to determine the amount of BT's accounts payable for invoices 30, 60, 90, and 120+ days overdue.

Investigate the City of Burlington's pooled cash management system and its cash flow funding of BT from 2003 to current in order to determine the amount and nature of the pooled cash expended.

Investigate Burlington Telecom's ("BT") financial and accounting records to determine whether BT actually expended the funds drawn from the cash pool and for what purposes these funds were expended for.

Investigate City of Burlington's and Burlington Telecom's ("BT") financial and accounting records to determine whether the cash pool fund withdrawals that are attributed to BT were actually expended by BT.

Review internal controls over expenditures from the City's cash pool system.

Discovery requests and evaluation of responses, including assistance with preparation for depositions;

Be deposed if required

Written testimony presenting a description of the review methods, materials reviewed, conclusions, and recommendations with supporting analysis;

Responses to discovery relating to the written testimony;

Cross-examination testimony and assistance with cross-examination of opposing witnesses;

Proposed findings of fact and other assistance with initial and reply briefs in support of the Department's case.