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March 4, 2016

Vermont Department of Public Service
112 State Street
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The Vermont Department of Public Service ("Department") has provided Larkin & Associates P.L.L.C. ("Larkin") with a copy of a report entitled "A Critique of the Vermont Department of Public Service's Ratepayer Advocacy Activities, Organization and Act 56, Section 21(b) Report"¹ ("AARP Report") for review. Larkin after reviewing the report is of the opinion that some clarification of observations and/or suggestions made in the AARP Report are necessary to provide a better understanding of the ratemaking process. The clarifications are intended to identify what Larkin believes are errors or to provide additional information as to why some of the discussions may be misleading.

Based on the read of the AARP Report Larkin interprets the report to suggest that the Department does not represent ratepayers (i.e. residential and small commercial ratepayers) and that the Department instead represents the public interest which would include the state as a whole. The AARP Report continues by suggesting that the "Department fails repeatedly to take positions that are consistent with ratepayer interests." The AARP Report then recommends that the legislature eliminate the Department as it currently exists (i.e. by eliminating the advocate function from the Department and create a new Ratepayer Advocate).

In discussing why the recommendations should be implemented the AARP Report at page 7 states that the Department did not impose or require the utility provide any documentation on requested capital expenditures. The AARP Report continued its critique by stating this included identification of capital projects, the purpose of capital projects, the anticipated and final costs, or any other standard information. This representation is categorically incorrect. Larkin has been retained as a consultant by the Department from time to time to represent the ratepayers of Vermont and apply a standard of ratemaking to our review of traditional rate filings and the current Alternative Regulation Process ("ARP") since 1990. Vermont ratemaking standards apply what is referred to as the "Known and Measurable Standard" ("K&M") for any changes to actual test year costs. The application of K&M requires the company to provide justification and cost support for any projects and "Operation & Maintenance Expense" ("O&M") that the company proposes to be included in the ratemaking process. During the ARP review Larkin prepared a report on the findings from each ARP review and documented in that report that K&M must be met and identified various issues that were questioned. Each of the ARP reviews included a detailed analysis on a project-by-project basis for the majority of the requested projects and each of the reviews resulted in changes to the company's requests. Similar application was made to O&M and various adjustments were recommended and in

¹ The AARP Report is dated February 24, 2016 and was prepared on behalf of AARP Vermont by Acadian Consulting Group.

some cases the company would make the adjustment. This process like traditional ratemaking would call for compromise on issues because it is, based on my experience of 40 years, highly unlikely that every proposed adjustment would be agreed with by the Board or Commission that renders the ultimate decision on the rate filing. Even after a decision is made the parties may petition the court for a review and request a change to that decision. The ratemaking process is a process of give and take and while some settlements may not appear to be in the best interest of ratepayers, the circumstances surrounding the decision to settle often are dictated that the risk of what could be lost if litigated would be worse for ratepayers. It also must be recognized that while the Department is set up to provide representation for ratepayers; any person in regulation knows that protection of the ratepayers includes evaluating whether the company has the means to provide safe and reliable service. Larkin also questions the accuracy of the statements on the 2013 ARP review on page 8 of the AARP Report that suggests the changes to the ARP plan were dictated solely by the AARP intervention and the suggestion on pages 10 and 11 of the AARP Report that the Department did not heed the Larkin report recommendations. The fact is that the ARP and any other associated filing are on a time schedule that does not allow for every issue to be resolved in a timely manner. The Company in the referenced case made concessions, again part of the give and take in ratemaking, and the company agreed to further review the vegetation issue. That issue has significant long term impact on the operations of the company and is not something that could be readily resolved at the time in a manner that would provide maximum benefit to ratepayers and the company.

Finally, the last word on any rate filing lies with the Board or Commission that has the decision making authority over the rate requests and that decision is made with the best interest of ratepayers and the company in mind. In the 40 years of ratemaking that I have participated in, I have found the Vermont Public Service Board to be fair and just in the decision process for both ratepayers and the company. The suggestion that ratepayers are not well represented in Vermont is meritless.

The AARP Report identifies various public advocate agencies in various other jurisdictions and discusses the structure of the agencies and how the Department's structure is not adequate. In my experience the structure of any public advocate is not perfect. The public advocate can be totally independent from the governor or the legislature and still be influenced by either. The legislature will pass laws that certain efficiencies must be made and certain green energy must be included in the ratemaking process whether it is the least cost alternative or not. The ratepayer advocate has no control over that. In my experience, despite an independent structure some ratepayer advocate agencies will not pursue a recommended adjustment even though the adjustment was accepted in other jurisdictions. The advocate, in some cases, opines that the adjustment is either too aggressive or they feel that since it was not approved before it isn't worth recommending again. Even in states that have aggressive advocates not all recommended adjustments are allowed to be presented to the Commission. And finally, even if a recommendation is allowed to be made the ultimate decision makers may not be as favorable to ratepayers as they are in other jurisdictions. This again is important because the decision makers of a regulatory proceeding serve as a check and balance to the requesting party and the intervening party. As a long time consultant, that has been cited in many Vermont rate orders, I have been allowed to independently make recommendations. In recent years during the ARP

period the Larkin reports have identified many issues. As stated in the reports, settlements were made in the spirit of compromise as has been discussed earlier (i.e. the give and take). Larkin understands that the ARP process was initiated by legislation and understands that the process is to minimize litigation and maintain the cost of regulation to achieve fair and reasonable rates. Larkin will also state, again, that every adjustment recommended in a rate proceeding will not be made. While I have had much success with my recommendations I cannot think of a case where every recommendation was accepted. Larkin recognizes AARP's concern but notes that AARP has intervened in many rate proceedings that Larkin has participated in and even supported the Department in past cases, but to my recollection has not been more aggressive in representing ratepayers than the Department. Larkin has represented advocates in many jurisdictions and Larkin is of the opinion that the Department in Vermont ranks as one of the top advocates for ratepayers.

Sincerely,

A handwritten signature in cursive script that reads "Helmut W. Schultz III". The signature is written in dark ink and includes a stylized flourish at the end.

Helmut W. Schultz III CPA