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Honorable Douglas R. Hoffer  
Vermont State Auditor

VIA EMAIL

October 5, 2023

**Re: 10-year Telecommunication Plan**

Dear Auditor Hoffer,

Please accept this letter in response to your memorandum dated September 29, 2023, regarding the Public Service Department's handling of the state's telecommunications planning process and the resulting 10-year Telecommunications Plan that the Department duly adopted in June of 2021.

First, please know that the anticipated concerns expressed in the September 29 Memo will receive the careful consideration they are due from this agency.

Second, the Department forwarded the September 29 Memo for comment to the consultants who prepared the 2021 Telecom Plan under the Department's close direction, and who are now working on the 2024 Telecom Plan. I have enclosed their response for your consideration. It plainly points to a profound disconnect between what is actually in the 2021 Telecom Plan and the critique distilled in the September 29 Memo. The actual content of the 2021 Telecom Plan provides more than sufficient grounds to hold that it met the statutory planning requirements for lawful adoption – a conclusion that is amply supported by the fact that the 2021 Telecom Plan was the subject of a legislative check-back hearing on June, 22, 2021, during which none of the committee members questioned the quality or the legal sufficiency of the 2021 Telecom Plan. To the contrary, the 2021 Telecom Plan appeared to be well-received by the committee members.

It bears noting that the Department's telecom planning consultants are highly regarded professionals of national and international repute who have over 25 years of deep expertise and experience in the fields of Telecommunications and Connectivity, and the related disciplines of state-jurisdictional policy development, planning and engineering. Based on the excellent caliber of their work on the 2021 Telecom Plan and the competitive bid they submitted this year to work on the 2024 Telecom Plan, I stand unequivocally behind the Department's decision to offer these consultants a return engagement for the planning work now underway.

Stepping back, the gist of the September 29 Memo appears to be that the present telecom planning statute, 30 V.S.A. § 202c, does not require the use of metrics to call the Department to account for measurable outcomes based on its telecommunications planning work. That is a fair assessment of the existing statute. However, it does not necessarily follow that the Department is not called to account for its work toward implementing state policy goals or does not receive effective oversight. Rather, the Department regularly appears before several legislative committees, where the agency's work is closely scrutinized, and legislators check in on the progress that the Department is making on matters such as objectives that are discussed in the State Telecom Plan. This is an oversight and accountability process that is appropriately tailored to the recognition that neither the

Legislature nor the Department has the requisite legal authority to compel achievement of the state's desired goals and policy objectives.

I note that the September 29 Memo favorably cites the Department's Comprehensive Energy Plan as a preferred example of how to construct a public policy plan that includes acceptable accountability measures. This comparison invites reflection on the distinction between the planning processes and outcomes that a state legislature can lawfully prescribe for the energy sector, which is still very much committed to state-based regulatory control, as opposed to the telecommunications sector, which is overwhelmingly committed to federal regulatory oversight. In short, the federal/state jurisdictional landscape for these two sectors is materially different – a fact that I think understandably accounts for different approaches to planning and resulting plans.

Looking forward, the Department welcomes your decision to monitor our work in completing the 2024 Telecom Plan. Please feel free to contact me if your office has additional questions or feedback to offer.

Kind regards.

DocuSigned by:

*June E. Tierney*

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June E Tierney

Commissioner

