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PRELIMINARY STATEMENT

In accordance with the Procedural Order issued by the Vermont Public Service Board (“Board”) in this proceeding on December 23, 1998, International Business Machines Corporation (“IBM”) hereby submits its comments regarding the scope, sequence and priority of activities that should be undertaken in the “Investigation into the Reform of Vermont’s Electric Power Supply” in this docket. For the reasons set forth herein, IBM recommends that the Board follow the scope and sequence of activities set forth by the Board in its December 11, 1998 Order in this docket.¹

SUMMARY OF ARGUMENT

On September 15, 1998, the Board issued an Order in Docket No. 6140 opening an investigation into the reform of Vermont’s electric power supply.² (“September 1998 Order”). In the September 1998 Order, the Board recognized that the power costs of Vermont’s electric utilities are presently well above market prices and absent reform, “may continue to be so due to the nature of the state’s long-term supply contracts.”³ Therefore, the Board opened the current proceeding with the goal of creating “a regulatory environment and a procedural framework that will call forth, for disciplined review,

¹ Docket No. 6140, Investigation into the Reform of Vermont’s Electric Power Supply, “Order Re: Technical Conferences” (issued December 11, 1998).

² Docket No. 6140, supra, “Order Opening Investigation” (issued September 15, 1998).

³ Id. at 1.

[of] the best proposals for reducing current and future power costs in Vermont.”⁴ The Board seeks to achieve this goal by, inter alia, reforming key elements of Vermont’s power supply.⁵

In July 1998, Vermont Governor Howard Dean created a Working Group on Vermont’s Electricity Future to determine, inter alia, how restructuring of the electric industry in Vermont can reduce both current and long-term electric rates for all classes of electric consumers. On December 18, 1998, the Working Group presented its Report (“Working Group Report”) to the Board and the parties at a technical conference in this docket. The Working Group Report recommends the restructuring of the electric industry. Although the Working Group Report recognizes that electric rates have been increasing in Vermont, primarily due to the above-market cost of the HQ/VJO contract, the Report fails to include a strategy to address the high above-market cost of the HQ/VJO contract or other above market purchase power contracts and does not provide a plan for reducing the cost of electricity in Vermont for consumers. Accordingly, the Working Group Report is inconsistent with the Board’s goal of current and future power cost reduction as set forth in the September 1998 Order. In fact, contrary to Vermont law, the Report implicitly recommends the full recovery of stranded costs including costs imprudently incurred by utilities.

The Working Group also disregards this Board’s prior Order in Docket No. 5854⁶ (“December 1996 Order”) recommending the restructuring of Vermont’s electric industry. In the December 1996 Order, the Board addressed in detail many of the issues facing Vermont as it moves to

⁴ Id. at 2-3.

⁵ Id. at 4.

⁶ Docket No. 5854, Investigation into the Restructuring of the Electric Industry in Vermont, “The Power to Choose: A Plan to Provide Customer Choice of Electricity Suppliers” (issued December 31, 1996).

a competitive electric environment, including the treatment of stranded costs.⁷ In spite of the vast expenditure of resources in Docket No. 5854 that resulted in a full and complete record, the Working Group Report makes recommendations on many of the issues that were addressed in that docket and that are contrary to the Board's findings. The Board should not allow relitigation, in this docket, of the recommendations and conclusions it made in Docket No. 5854.

In addition, at the December 18, 1998 technical conference in this docket, Central Vermont Public Service Corporation ("Central Vermont" or "CVPS") disseminated a "Procedural Outline" which sets forth a procedure for establishing six separate dockets to be commenced and completed in 1999 for the purpose of the consolidation of the Green Mountain Power Corporation ("Green Mountain" or "GMP") and Central Vermont into a new company ("NewCo"). IBM urges the Board not to adopt that Procedural Outline in this docket. As with the Working Group Report, several of the issues Central Vermont seeks to address already were addressed by the Board in the December 1996 Order and should not be revisited at this time. And, the proposed consolidation of GMP and CVPS is ancillary to the restructuring of the electric industry. The CVPS/GMP consolidation proposal should be reviewed by the Board separately in accordance with Vermont and federal statutory requirements.

STATEMENT OF FACTS

Starting in 1994, the Board has conducted a comprehensive analysis of the restructuring of the electric industry in Vermont with a goal, *inter alia*, of enhancing the ongoing competitiveness of Vermont's businesses and economy through the reduction of short and long-term electric rates. In October 1994, the Board and the Department of Public Service ("Department") collaborated on a project entitled

⁷ Id. at 51-87.

the “Vermont Roundtable of Competition and the Electric Industry” (“Roundtable”). A wide array of interests from various segments of the electric industry participated in this collaborative effort including investor-owned and municipal utility companies, commercial and industrial customers, representatives of residential consumers, environmental groups, and low-income advocates. The Roundtable produced the “Vermont Principles for Competition in the Electric Industry” (“Restructuring Principles”) which was adopted by the Board as the public and private goals of electric industry restructuring and retail competition in Vermont. The Restructuring Principles directed that restructuring should be pursued if the benefits of restructuring (i.e., reduced electric rates and greater retail choice) were extended equitably to all customer classes.

On October 17, 1994, the Board commenced a formal investigation to receive and evaluate proposals on electric restructuring in Vermont.⁸ Initially, workshops were conducted with the Board and collaborative negotiations took place among the participants. The workshops culminated in consensus filings on many issues in March 1996. Thereafter, the participants filed restructuring proposals and responses in June and July 1996, respectively, and two weeks of technical conferences were held in early July. On the basis of these detailed filings and technical discussions, the Board issued a Draft Report and Order on October 16, 1996 (“Draft Report”). Detailed comments on the Draft Report were received from the participants and many other interested persons at numerous public interactive statewide meetings. The investigative process culminated on December 31, 1996, with the Board’s issuance of its Report and Order, “The Power to Choose: A Plan to Provide Customer Choice of Electricity Suppliers.”

In the December 1996 Order, the Board strongly recommended restructuring the electric industry in Vermont. In so doing, the Board addressed the fundamental issues related to restructuring of

⁸ Docket No. 5854, supra.

the electric industry in the State including, inter alia, the recovery of stranded costs, the schedule for retail choice, customer aggregation, energy efficiency, and low income customer protections. However, the Board cautioned that prior to implementing restructuring, “Vermont must be able to demonstrate that, as a result of restructuring, customers will benefit from short-term rates that are lower than expected tariffed rates over the transition period and that are comparable to rates in competing states; and customers should see significant cost savings over the longer term.”⁹

Since the December 1996 Order was issued, several electric restructuring bills have been introduced in both houses of the Vermont legislature. To date no bill has passed both the Senate and the Assembly. As discussed, supra, in July 1998, Governor Dean appointed a special “Working Group on Vermont’s Electricity Future” to determine how restructuring of Vermont’s electric industry could reduce both short and long-term electric rates for the State’s electric consumers. Moreover, on September 15, 1998, the Board opened an investigation in this docket to investigate the best proposals for reducing current and future power costs in Vermont. On December 18, 1998, the Working Group Report was presented to the Board at a technical conference in this docket.

ARGUMENT

POINT I

THE GOALS FOR RESTRUCTURING MUST BE ESTABLISHED IN ADVANCE OF ANY HEARINGS

As demonstrated, supra, in July 1998 the Working Group on Vermont’s Electricity Future was created to determine how restructuring the electric industry in Vermont could reduce both current and long-term electric costs for all classes of electric consumers. (Working Group Report at 1.) Similarly, on

⁹ Docket No. 5854, supra, December 31, 1996 Order at 83.

September 15, 1998, the Board issued an order in this docket establishing as the goal of this proceeding the creation of “a regulatory environment and a procedural framework that will call forth, for the disciplined review, [of] the best proposals for reducing current and future power costs in Vermont.”¹⁰ However, the Working Group Report not only fails to provide a plan for reducing the cost of electricity for all consumers, it also fails to include a strategy to address the single largest problem affecting electric rates in the State -- the high cost of the HQ/VJO contract. Instead, the Report inequitably proposes benefits for Vermont’s utilities and their shareholders without offering comparable benefits to utility customers. In determining the procedure to be used in this docket, the Board should direct the parties to follow the goals for restructuring of the electric industry set forth in both its December 1996 and September 1998 Orders.

A. The Primary Objective for Restructuring Should Be the Reduction of Short-Term and Long-Term Electric Rates for All Vermont Consumers

In the December 1996 and September 1998 Orders, the Board recognized the critical importance of rate reductions. The Board held that utilities could be provided with an opportunity to recover stranded costs resulting from restructuring “only where they can provide rates for customers from the onset of retail choice that are at or below the rates those customers would otherwise pay.”¹¹ In this docket, the Board has reiterated that the reduction of electric rates for all of the State’s consumers is the primary objective of restructuring in Vermont.

By adopting price reductions as the primary objective of restructuring, Vermont would be following the same path as other neighboring states. In Massachusetts, for example, by September, 1999,

¹⁰ Docket No. 6140, supra, September 15, 1998 Order at 2-3.

¹¹ Docket No. 5854, supra, December 31, 1996 Order at 83.

electric rates will be reduced by 15%. Similarly, Connecticut's restructuring plan resulted in a 10% reduction from 1996 rates. In New York, the state's investor owned utilities executed utility specific rate and restructuring settlement agreements that provide as a minimum rate caps for all customers for 4-5 years, with rate reductions of 5% to 25% for certain customer classes. This approach is consistent with the December 1996 Order. As the Board stated:

As in these other states, Vermont must be able to demonstrate that, as a result of restructuring, consumers will benefit from short-term rates that are lower than expected tariffed rates over the transition period and that are comparable to rates in competing states; and consumers should see significant cost savings over the longer term.¹²

The immediate reduction of Vermont's energy costs is critical to the continued economic viability of the State. As demonstrated by the Chart attached as Appendix "A", since 1991, the electric rates of Vermont's two largest utilities has increased precipitously in comparison with the national average. As Richard La Capra stated at the December 18, 1998 Technical Conference in this proceeding, under the current trend energy prices in Vermont "will be more costly than the rest of the northeast, according to all indicators of the restructuring and the fuel makeups and service territories within the northeast."¹³

It should be noted that, Mr. La Capra's projections for Vermont's rates improperly include all of the costs associated with the HQ/VJO Contract.¹⁴ However, as demonstrated, supra, Vermont utilities are not permitted to recover imprudent costs.¹⁵ Also, utilities are limited to 50% recovery for non-

¹² Id.; Given the national and global nature of today's economic structure the term "competing states" should be broadly defined as the "United States".

¹³ Docket No. 6140, supra, December 18, 1998 Technical Conference Transcript at 62.

¹⁴ Id. at 67-73.

¹⁵ See Docket 5854, supra, at 67; Docket 5983, supra.

used-and-useful costs.¹⁶ Accordingly, any reduction to rates that are below what customers otherwise would pay must be based on rates that include only prudent and used and useful costs that are approved for recovery by the Board.

B. The Renegotiation of the HQ/VJO Contract is Essential to Reducing Short-Term and Long-Term Electric Rates in Vermont

In the December 1996 Order, the Board recognized that the mitigation of above-market stranded costs is essential to the success of restructuring in Vermont.¹⁷ However, unlike surrounding states, Vermont lacks a sufficient number of generating plants that can be sold above book value to mitigate stranded costs.¹⁸ As the Board stated in the December 1996 Order “it is clear that a significant financial restructuring of existing purchase power contracts will be necessary to ensure the financial health of Vermont utilities and fair and reasonable rates to Vermont ratepayers.”¹⁹ The Board concluded that it is essential that utilities focus their efforts on renegotiation of their power purchase contracts in order to succeed in the goal of reducing Vermont’s electric rates. This conclusion is as true today as it was two years ago. Thus, in order to ensure that consumer rate reductions will be achieved, the renegotiations of these contracts must occur either before or as a part of the restructuring process.²⁰

¹⁶ Id.

¹⁷ Significantly, the Board held utilities have an obligation to take all reasonable measures to mitigate the costs of their existing commitments.

¹⁸ Docket No. 6140, supra, December 18, 1998 Technical Conference Transcript at 79.

¹⁹ Docket No. 5854, supra, December 31, 1996 Order at 52.

²⁰ Despite Hyrdo-Quebec’s purported willingness to address a financial restructuring of the HQ/VJO Contract if the Working Group’s recommendations are followed, Vermont’s
(continued...)

The mitigation of stranded costs through the renegotiation of above-market power purchase contracts has been successfully accomplished in other states. For example, in New York, pursuant to a Master Restructuring Agreement (“MRA”), the Niagara Mohawk Power Corporation terminated, restated, or amended 27 purchase power agreements (“PPAs”) representing approximately 75% of the utility’s above-market purchased power obligations. The utility paid approximately \$3.631 billion in cash and 42.9 million shares of Niagara Mohawk common stock. Thus, the shareholders contributed approximately 22% of the company’s equity as part of the deal.²¹ As a result of the MRA, Niagara Mohawk had a significant improvement in cash flow resulting from the reduction in payment obligations under existing PPAs. Moreover, the savings in annual energy payments will yield significant cash flow that can be dedicated to the repayment of debt.²²

All the elements of the MRA, (i.e., new contracts, new rate design, consumer support) were concluded before Niagara Mohawk’s restructuring settlement agreement was submitted to the New York State Public Service Commission for final approval. As Michael Ranger noted at the December 18, 1998 Technical Conference, the all-encompassing framework of such agreements addresses all the issues

²⁰(...continued)

restructuring policy should not be dictated by the outside parties. As the Board stated in the December 1996 Order, Vermont will be best served by charting its own plan of action, not merely reacting to the actions of other entities. Docket No. 5854, supra, December 31, 1996 Order at 8.

²¹ Docket No. 6140, supra, December 18, 1998 Technical Conference Transcript at 125.

²² As shown on the chart attached as Appendix “B”, Niagara Mohawk’s stock price has increased by approximately 100 percent since the MRA was executed.

at once and because the deal is contingent on other features of the restructuring it keeps the parties moving toward the same goal (i.e., the reduction of electric rates).²³

Similar to Niagara Mohawk, Vermont's utilities should renegotiate their PPAs within the context of individually negotiated rate and restructuring settlement agreements.²⁴ As the Board held in its December 1996 Order, the use of negotiated settlements provides an effective method to "equitably resolve the challenge of stranded costs for individual utilities".²⁵ However, as the Board warned, any negotiated settlement must result in both a short and long-term rate benefit for Vermont's electric consumers.²⁶

POINT II

THE BOARD SHOULD REJECT THE WORKING GROUP REPORT'S RECOMMENDATIONS ON ELECTRIC INDUSTRY RESTRUCTURING IN VERMONT

The Working Group Report asserts that prior efforts regarding restructuring of the electric industry in Vermont failed to make "a choice for the future." (Working Group Report at 4). The Report purports to address this by recommending that Vermont move forward with restructuring of its electric industry. However, contrary to the Working Group's assertions, the Board previously recommended the restructuring of Vermont's electric industry. Through the use of an open public process, the Board addressed many of the issues essential to the implementation of restructuring in the State, including the

²³ Docket No. 6140, supra, December 18, 1998 Technical Conference Transcript at 124-125.

²⁴ The use of negotiated settlements was also implemented in Massachusetts.

²⁵ Docket No. 5854, supra, December 31, 1996 Order at 82.

²⁶ Id. at 83.

appropriate treatment of stranded costs.²⁷ Therefore, to the extent that the Board previously has addressed the issues associated with restructuring, its determinations should be followed in this docket.

A. The Board's December 31, 1996 Order in Docket No. 5854 Should Be Used as the Basis for Restructuring in this Docket

In the December 1996 Order, the Board stated that restructuring of the electric industry in Vermont should provide for economic development in the State through the reduction of short and long-term energy costs for all classes of electric consumers.²⁸ The Board's goals and accompanying determinations should serve as the basis for restructuring in the current proceeding.

For example, on the issue of stranded cost recovery, the Working Group Report's recommendations are inconsistent with the December 1996 Order. The Working Group Report implicitly recommends the recovery of all stranded costs resulting from restructuring. And, at the technical hearing on December 18, 1998, Mr. Gilbert stated in response to a question regarding the potential sharing of stranded costs between utility shareholders and ratepayers that the Working Group "assumed that [stranded] costs, which were prudently incurred, would be paid as a part of restructuring."²⁹ At the technical conference, Mr. Gilbert implied that the recovery of imprudent costs also would be considered.

²⁷ See Docket No. 5854, supra, December 31, 1996 Order.

²⁸ Id. at 53, 83.

²⁹ Docket No. 6140, supra, December 18, 1998 Technical Conference at 27-28.

Q. Has the Working Group left open the door for the possibility of ratepayers paying for costs that were imprudently incurred?

A. ...[N]obody should welcome paying imprudent costs, the fact is that if they are not paid, there are consequences. And those consequences, if it's bankruptcy, are not sound policy in our view.³⁰

In the December 1996 Order, the Board held that utilities would not be entitled to the recovery of any imprudently incurred stranded costs. The Board stated that “our precedent is absolutely clear, and uncontroverted by any participant in this Docket, that imprudent expenditures by utilities are not recoverable from ratepayers.”³¹ Similarly, the Board determined that the recovery of any costs deemed not used and useful would be shared equally between the utility and ratepayers.³² These principles must continue to be applied in any restructuring that is approved by the Board.

With respect to the recovery of legitimate, verifiable, prudently incurred stranded costs, the Board determined that as a matter of law utilities were not entitled to 100% recovery.

The Board held that the goal of lower energy costs would be greatly diminished if consumers were required to bear an inordinate amount of the utilities' stranded costs thereby creating a long-term competitive economic disadvantage to Vermont.³³ Moreover, the Board stated that it would be

³⁰ Id. at 28-30. Moreover, as demonstrated, supra, this policy is inconsistent with Board precedent which clearly prohibits the recovery of imprudently incurred costs. See also, Docket No. 5983, Tariff filing of Green Mountain Power Corporation requesting a 16.715% rate increase to take effect July 31, 1997, (issued February 27, 1998).

³¹ Docket No. 5854, supra, December 1996 Order at 67.

³² Id.

³³ Id. at 72.

unreasonable to require customers to pay rates that may be commercially unsustainable.³⁴ Accordingly, the Board held that it would not support solutions that require future ratepayers to pay large surcharges over a long period of time as a result of past utility decisions that impose an oversized burden on the Vermont economy in relation to the State's economic competitors (i.e., the HQ/VJO Contract).³⁵

In reaching its conclusion, the Board rejected the following utility arguments in favor of full stranded cost recovery: (1) the utilities have a binding contractual right to full recovery; (2) the Takings Clause of the United States Constitution mandates full recovery; and (3) Board precedent prohibits less than full recovery.

With respect to the utilities' contractual claims, the Board held that there is no binding "regulatory contract" between the State and its utilities that requires the full recovery of stranded costs. Citing to Dodge v. Board of Education, 302 U.S. 74, 78-79 (1937) and Indiana ex rel. Anderson v. Brand, 303 U.S. 95, 104-105 (1938), the Board held that the utilities failed to prove the existence of clear contractual language in the Vermont Statutes that demonstrates a legislative intent to create a binding contract between the State and the utilities.³⁶

The Board also rejected the argument that the Takings Clause of the United States Constitution mandates the full recovery of stranded costs. As the Board correctly held, the United States Supreme Court consistently has held that property affected with the public interest, such as property used in the provision of public utility service, is subject to a less stringent takings analysis than purely private property. (See Duquesne Light Co. v. Barasch, 488 U.S. 229, 307 (1989)). As the Board stated:

³⁴ Id. at 71.

³⁵ Id. at 72.

³⁶ Id. at 57.

The overarching principle is that under the Takings Clause, it is the end result of regulation that matters rather than the specific methodology by which the result is obtained.³⁷

If the end result represents an equitable balance of ratepayer and shareholder interests, and falls within a range of reasonableness, the Takings Clause is not violated. FPC v. Hope Natural Gas Co., 320 U.S. 591, 602 (citations omitted) (1944).

The Board further held that:

[s]ubsumed under this overarching principle are several subsidiary principles: the Constitution does not require full recovery of prudently incurred utility costs; the Constitution does not require states to protect utilities from the effects of competition; and the Constitution does not require rates that guarantee the financial viability of the utility.³⁸

Significantly, the Board determined that the Takings Clause did not entitle utilities to artificially high rates as the State moves to a competitive electric market.³⁹

The issue of whether customers should be required to pay all of the utilities' stranded costs including possibly imprudently incurred stranded costs, has been addressed by the Board in its December 1996 Order and the Board's conclusions should govern the restructuring process in this docket. Likewise, the Board analyzed in detail, several of the other issues raised by the Working Group Report. The Board's December 1996 Order should govern any discussion of those issues as well.

B. The Procedures Set Forth in the Board's December 11, 1998 Order Should be Followed in this Docket

³⁷ Id. at 60 (citing Duquesne at 316 n.10).

³⁸ Id. at 60.

³⁹ As the Supreme Court held in Market Street Railway v. Railroad Commission of California, 324 U.S. 548, 567-568 (1945), the Takings Clause "cannot be applied to insure values or to restore values that have been lost by the operation of economic forces."

On December 11, 1998, the Board issued an “Order Re: Technical Conferences” establishing a series of technical conferences beginning in January 1999, to examine in-depth topics pertaining to the reduction of energy costs and the enhancement of the value of Vermont utilities’ power supply portfolios.⁴⁰ The topics include, inter alia, (i) sales and auctions of current power supply resources; (ii) securitization; (iii) mergers and consolidations. This procedure, as set forth by the Board, will be a public process which will provide an evidentiary basis for addressing significant restructuring issues that have not yet been addressed by the Board. This process will allow all parties the opportunity to participate and benefit from rigorous review of the evidence and provides the best method for achieving the goal of reducing electric rates for all consumers through restructuring.

In addition, the Board will open a new, companion docket, Docket No. 6140-A, “to investigate the consequences of, and legal and financial issues surrounding, the potential bankruptcy or default under the HQ/VJO Contract by one or more of Vermont’s electric utilities.”⁴¹ The Board’s procedure provides for a thorough investigation of a potential filing by one or more of Vermont’s utilities, seeking protection under bankruptcy laws.⁴² Notwithstanding the Working Group Report’s conclusory and unsupported rejection of a bankruptcy filing as a legitimate alternative, bankruptcy remains an option that merits careful review as part of the restructuring of Vermont’s electric industry. Examination and review of this alternative is a necessary part of the ratemaking and restructuring debate in Vermont.

Given the eroding competitive position of Vermont and its utilities, it is critical that the Board commence its investigation into the bankruptcy option immediately. Moreover, in order to avoid

⁴⁰ Docket No. 6140, supra, Order of December 11, 1998 at 1.

⁴¹ Id. at 2.

⁴² The Board intends to hire legal and technical experts to aid in its examination.

duplicate efforts by the parties and to provide a more solid basis for future decisions, the investigation of bankruptcy should be concluded prior to the resumption of GMP's scheduled rate case in Docket No. 6107.

POINT III

THE PROPOSED CONSOLIDATION OF GMP AND CVPS IS ANCILLARY TO ELECTRIC INDUSTRY RESTRUCTURING AND SHOULD BE CONSIDERED SEPARATELY FROM THE RESTRUCTURING DEBATE

At the December 18, 1998, Technical Conference in this proceeding, CVPS distributed a "Procedural Outline" under which CVPS and GMP would be consolidated into a new company. The Working Group Report recommends that the proposed consolidation be considered within the context of Vermont's entire restructuring plan. However, the proposed consolidation is ancillary to restructuring and should not be considered within the context of this docket.

Pursuant to the Vermont Public Service Law any merger involving a Vermont public utility will not be effective unless prior approval of the Board is sought and obtained. VT. STAT. ANN. tit. 30, § 311 (Supp. 1998). Under the law, the merging utilities must submit an application to the Board on notice and interested parties must be given an opportunity for a hearing.⁴³ *Id.* Similarly, facilities within the jurisdiction of the Federal Energy Regulatory Commission ("FERC") may not, *inter alia*, be sold, leased, or subject to corporate merger without prior authorization from the FERC. 16 U.S.C. § 824(b). The utilities must submit merger applications on notice to FERC and interested parties must be given an

⁴³ Vermont utilities are required to provide the Board written notice at least ninety days prior to the execution of any contracts for the purchase or lease of any electric generation or transmission facilities. Vermont Pub. Serv. Bd. Gen. Order 45 (issued September 29, 1965).

opportunity for a hearing. Id. Any proposed sale or merger involving FERC jurisdictional facilities must be “consistent with the public interest.” Id.

Therefore, in accordance with both Vermont and federal law, the proposed merger of CVPS and GMP can proceed with or without electric industry restructuring, provided it is consistent with the public interest. Consideration of the proposed merger, in the context of electric industry restructuring is neither necessary nor desirable because it will unnecessarily complicate the restructuring dockets.

Because of the issues that must be considered, under both Vermont and federal law in determining whether a merger is appropriate, the proposed merger of CVPS and GMP should not be considered in the overall context of restructuring. Rather, any such merger should be considered on its own merits in a separate proceeding.

CONCLUSION

As set forth herein, in compliance with its 1996 and 1998 Orders, the Board should establish short and long-term electric rate reduction as the primary goal for restructuring. Moreover, the Board should follow the procedures set forth in its December 11, 1998 Order, complete Docket 6140-A prior to the resumption of GMP's rate case in Docket No. 6107 and consider the CVPS/GMP merger proposal in a separate proceeding.

Dated: Albany, New York
January 8, 1999

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing “Comments of International Business Machines” was served on all active parties to this proceeding by forwarding a copy of said Comments via Overnight Mail or U.S. Mail on January 8, 1999.

Autumn M. Adams