

LAW OFFICE OF CHARLOTTE MITCHELL

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November 1, 2017

J. L. Jarvis  
Chief Clerk  
North Carolina Utilities Commission  
430 N. Salisbury Street  
Raleigh, NC 27603 – 5918

**Re: Notice of Objection and Motion for Leave  
NCUC Docket No. EC-23, Sub 50**

Dear Ms. Jarvis:

Enclosed herewith, for filing on behalf of Blue Ridge Electric Membership Corporation, please find Blue Ridge Electric Membership Corporation's Notice of Objection to Untimely Filing and Motion for Leave to Supplement Rebuttal Testimony at Hearing. Should you have any questions or comments, please do not hesitate to call me. Thank you in advance for your assistance and cooperation.

Regards,

/s Charlotte Mitchell

STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH

DOCKET NO. EC-23, SUB 50

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of:

Blue Ridge ELECTRIC  
MEMBERSHIP CORPORATION,

Petitioner,

v.

CHARTER COMMUNICATIONS  
PROPERTIES LLC,

Respondent.

BLUE RIDGE ELECTRIC  
MEMBERSHIP CORPORATION'S  
OBJECTION TO UNTIMELY FILING  
AND MOTION FOR LEAVE TO  
SUPPLEMENT REBUTTAL  
TESTIMONY AT HEARING

NOW COMES Petitioner Blue Ridge Electric Membership Corporation ("Blue Ridge") and submits this objection to Charter Communications Properties LLC's ("Charter") untimely filing of responsive testimony, and moves the Commission for leave to supplement its rebuttal testimony, as necessary, with live testimony at hearing. In support of this objection and motion, Blue Ridge shows the Commission the following:

1. On June 7, 2017, the Commission issued its Order Establishing Procedural Schedule (the "Procedural Order"), adopting Charter's proposed procedural schedule and directing, among other things: (i) Blue Ridge to prefile testimony by October 11, 2017; (ii) Charter to prefile responsive testimony by no later than October 25, 2017; and (iii) Blue Ridge to prefile rebuttal testimony by no later than November 1, 2017. The Procedural Order set this matter for hearing on November 8, 2017.

2. On October 6, 2017, pursuant to joint motion of the parties filed on October 3, 2017, the Commission issued an Order Granting Joint Motion to Modify Procedural Schedule (“Modification Order”), extending: (i) the deadline for Blue Ridge to prefile direct testimony from October 11, 2017 to October 16, 2017; (ii) the deadline for Charter to prefile responsive testimony from October 27, 2017 to October 30, 2017; and (iii) the deadline for Blue Ridge to prefile rebuttal testimony from November 1, 2017 to November 6, 2017. The Modification Order did not modify the date of the hearing, which remains set for November 8, 2017. The Modification Order also did not alter the requirement that the parties file materials by 5:00 p.m. on the day they are due, as required by Rule R1-28(b) of the Rules and Regulations of the North Carolina Utilities Commission (the “Rules”).

3. Charter failed to file its responsive testimony by 5:00 p.m. on October 30, 2017, without first conferring with Blue Ridge and/or requesting and receiving permission to file out of time, as required by the Modification Order and by Rule R1-28(h).

4. Blue Ridge agreed to the extensions of time requested in the joint motion filed on October 3, 2017 based, in part, on a willingness to ensure that Charter had ample opportunity to conduct discovery and take depositions. In agreeing to an extension of time for Charter to prefile its responsive testimony, Blue Ridge gave up valuable time to develop rebuttal testimony and prepare for hearing. By failing to file its testimony when due, Charter has further deprived Blue Ridge of time to prepare, and has shown a lack of respect for the parties’ agreements and the Commission’s procedural requirements.

5. Blue Ridge intends to prefile its rebuttal testimony on November, 6, 2017 in accordance with the Modification Order. However, in light of Charter's untimely filing, Blue Ridge moves the Commission for leave to supplement its rebuttal testimony, as necessary, with live testimony from those witnesses who will be submitting pre-filed rebuttal testimony in this matter.

### **REQUEST FOR RELIEF**

WHEREFORE, Blue Ridge respectfully requests that the Commission:

1. Enter an order granting Blue Ridge leave to supplement rebuttal testimony, as necessary, orally from the witness stand; and
2. Award such other relief as the Commission deems just and proper.

Respectfully submitted this the 1st day of November, 2017.

/s Charlotte A. Mitchell (NC Bar # 34106)  
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ATTORNEYS FOR BLUE RIDGE  
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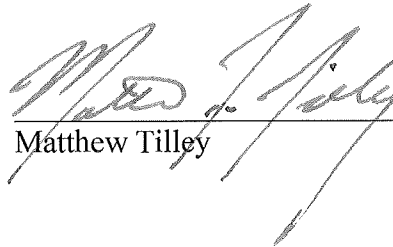
STATE OF NORTH CAROLINA

MECKLENBURG COUNTY

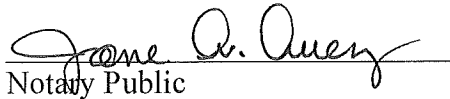
VERIFICATION

The undersigned, Matthew F. Tilley, being first duly sworn, deposes and says that he is a lawyer with Womble Bond Dickinson (US) LLP and counsel to Blue Ridge Electric Membership Corporation in this proceeding. He further states that he has read the foregoing objection and motion, and that, to his personal knowledge and belief, the matters and statements contained therein are true, except as to those matters or statements made upon information and belief, and as to those, he believes them to be true; and that he verifies the attached notice and motion.

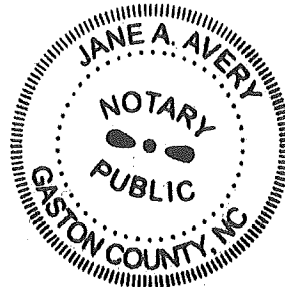
This the 1st day of November, 2017.

  
Matthew Tilley

Sworn to and subscribed before me  
this 1<sup>st</sup> day of November, 2017.

  
Notary Public

My Commission Expires: 09/11/2018



**CERTIFICATE OF SERVICE**

The undersigned certifies that he has served a copy of the foregoing **BLUE RIDGE ELECTRIC MEMBERSHIP CORPORATION'S OBJECTION TO UNTIMELY FILING AND MOTION FOR LEAVE TO SUPPLEMENT REBUTTAL TESTIMONY AT HEARING** upon the parties of record in this proceeding, or their attorneys, by electronic mail as follows:

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This 1st day of November, 2017.

/s Charlotte A. Mitchell