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March 22, 2024

VIA EMAIL

Ms. Lisa Stevenson
Acting General Counsel
Federal Election Commission
1050 First Street, NE
Washington, DC 20463

Re: MUR 8065 – Response to Complaint

Dear Ms. Stevenson:

This response is submitted on behalf of Vermont Public Co. (“Vermont Public”),¹ in response to the Commission’s letter dated February 13, 2024, notifying Vermont Public of a complaint filed by Ms. Cris Ericson, designated by the Commission as MUR 8065.²

During the 2022 election, Vermont Public produced and aired several live candidate debates, including an October 13, 2022, general election debate with US Senate candidates. All of Vermont Public’s debates complied with the requirements of the Commission’s candidate debate staging regulations at 11 C.F.R. §§ 110.13 and 114.4(f), using pre-established selection criteria that were in no way designed to result in the selection of pre-chosen candidates.³

For its general election debates, Vermont Public’s selection criteria required candidates to satisfy at least one of the following criteria:

- Major party status;

¹ Vermont Public is the licensee of several noncommercial educational television and radio stations operating throughout the state of Vermont.

² This response is filed timely pursuant to an extension granted by Commission staff.

³ Vermont Public (1) is a nonprofit organization which does not endorse, support, or oppose political candidates or political parties (11 C.F.R. § 110.13(a)(1)) and (2) a broadcaster that is not owned or controlled by a political party, political committee or candidate (11 C.F.R. § 110.13(a)(2)); each debate included at least two candidate and was not structured to promote or advance one candidate over another (11 C.F.R. § 110.13(b)); and pre-established objective criteria were used to determine which candidates participated in the debates (11 C.F.R. § 110.13(c)). *See* Corporate and Labor Organization Activity; Express Advocacy and Coordination with Candidates, 60 Fed. Reg. 64,260, 64,262 (Dec. 14, 1995).

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- Incumbent officeholder;
- Independent or minor party candidate who received 5% or more of the vote in the previous statewide general election for state or federal office (emphasis added);
- Candidate for a minor party which received 5% or more in a previous statewide general election for state or federal office; or
- Independent or minor party candidate who received 5% or more in a statewide scientific nonpartisan poll, conducted within the last six months.⁴

Ms. Ericson was not included in Vermont Public's 2022 US Senate candidate debate because she did not satisfy any of the pre-established selection criteria listed above. Specifically,

- Ms. Ericson did not have major party status.⁵
- Ms. Ericson was not an incumbent officeholder.
- Ms. Ericson was not an independent or a minor party candidate who received 5% or more of the vote in the previous statewide general election for state or federal office (emphasis added).⁶
- Ms. Ericson was not a candidate of a minor party which received 5% or more in a previous statewide general election for state or federal office.
- Ms. Ericson was not an independent or a minor party candidate who received 5% or more in a statewide scientific nonpartisan poll, conducted within the last six months.

Accordingly, pursuant to 52 U.S.C. § 30109, this matter should be dismissed.

Respectfully Submitted,

/s/ Brad Deutsch

Brad Deutsch
Counsel to Vermont Public Co.

⁴ All candidates were also required to have filed any necessary paperwork and signatures with the Vermont Secretary of State, as well as the Federal Election Commission. Vermont Public's debate selection criteria are publicly available at <https://npr.brightspotcdn.com/90/c4/0af6328741b68664c7efdf2ea748/2022-vermont-public-general-election-debate-guidelines-1.pdf>.

⁵ Ms. Ericson appeared on the 2022 Vermont general election ballot for the office of US Senator an independent. See Sample Ballot provided in undated Supplement to Complaint. See also <https://electionarchive.vermont.gov/elections/view/158046/>.

⁶ Although Ms. Ericson received 13.14% of the 2020 general election vote in her bid to serve as Vermont's Auditor of Accounts, she ran in the 2020 election as a *major* party candidate. See <https://sos.vermont.gov/elections/election-info-resources/parties/> (in Vermont, the Progressive Party is a *major* party). It should be noted that Ms. Ericson appeared as the Progressive Party candidate on Vermont's 2020 general election ballot for a total of five offices. In addition to Auditor of Accounts, Ms. Ericson also appeared as a candidate for Lieutenant Governor (receiving 2.12% of the vote), State Treasurer (receiving 3.18% of the vote), Secretary of State (receiving 3.01% of the vote), and Attorney General (receiving 4.27% of the vote). See https://outside.vermont.gov/dept/sos/Elections%20Division/election%20info%20and%20resources/elections%20results%20and%20data/winnerlisting_2020.pdf.