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AUG 29 2018

Town of Bristol

August 24, 2018

Valerie Capels, Town Administrator  
Town of Bristol  
1 South Street, P.O. Box 249  
Bristol, VT 0543

Re: Complaint for Declaratory Relief Relating to License Granted  
Vermont Gas Systems  
Claim Number: 20180936-G01

Dear Ms. Capels:

On behalf of PACIF we acknowledge receipt of the suit relating to the License Agreement permitting Vermont Gas to install distribution lines along the Town highway network. I am sorry to advise PACIF does not find coverage for this proceeding through its liability program.

The suit is filed in the Addison Civil Division of Vermont Superior Court. There are thirty-six listed Plaintiffs who are either property owners or tenants in the Town of Bristol.

The suit challenges the validity of a License Agreement entered into between the Town acting through the Selectboard and Vermont Gas Systems in July 2018. It is premised on the argument that under 24 V.S.A. §1061 the Selectboard was required to hold a vote, or post thirty days advance notice of its intent to enter the License Agreement. According to Plaintiffs, the Town does not otherwise have authority to grant the License.

The suit seeks a declaratory ruling the Selectboard's action violated the statute and declaring the License Agreement void and unenforceable.

#### Discussion of Coverage

Through its membership in PACIF Bristol obtains both general liability coverage (Agreement C at page 54 of the 2018 Coverage Document) and public officials liability coverage (Agreement K at page 83).

General liability coverage in Agreement C responds to claims for Property Damage and/or Personal Injuries relating to events occurring unexpectedly and

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unintentionally. The definitions of Personal Injuries and Property Damage are at page 58. Plaintiff makes no claim of bodily or personal injury within the personal injury definition. And no claim of Property Damage which as defined requires there be damage to, or loss of use, of tangible property. Plaintiff seeks only to challenge the Selectboard's decision to Vermont Gas Systems to grant the license. Because there is no claim of Personal Injury or Property Damage there is no coverage under the General Liability portion of the PACIG program.

As noted above, PACIF's public officials liability coverage is set forth in Agreement K of the Coverage Document. Under this coverage, PACIF agrees to indemnify Members "for all sums which the Member shall become obligated to pay. . . by reason of Wrongful Act(s). . ." Wrongful Act(s) is defined at page 87 to include "any actual or alleged violation of any federal, state or local civil rights, or breach of duty by the Member. . ." Plaintiffs seek to overturn a Selectboard decision to allow Vermont Gas to install a gas distribution system within the Town Highway System. They claim a breach of duty by the Town in entering the agreement without notice or a vote within the definition of Wrongful Act.

However, Exclusion 8 states the Public Officials Coverage does not apply to any claims made against the Member:

For any loss arising out of claims, demands, or actions seeking relief or redress in any form other than monetary damages, or for any fees, costs, or expenses which the Named Member may become obligated to pay as a result of any adverse judgment for declaratory relief or injunctive relief.

The legal proceeding seeks only to void the grant of the License Agreement and declaratory relief. Thus it seeks relief in forms other than monetary damages and is not covered through the PACIF program.

In summary, PACIF does not provide coverage for a Rule 75 appeal such as this or a declaratory judgment action on the validity of the Town entering the License Agreement.

Should you disagree with our coverage analysis, you have the right to appeal the decision in writing to the Claims Manager, Kelly Kindestin [kkindestin@vlct.org](mailto:kkindestin@vlct.org) .

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Very truly yours,

Kelly Kindestin

Manager, Property & Casualty Claims