



4. After reviewing the September Report, the Commission conferred with Plaintiffs' counsel by electronic mail on October 2, 2023, soliciting Plaintiffs' position on this motion, requesting copies of the facts and data supporting the new report, and attempting to resolve the dispute. *See* Mot. Ex. C., Email String Dated October 2-3, 2023, ECF No. 89-3.

5. On October 3, 2023, Plaintiffs responded. *Id.* Plaintiffs did not concur with Defendants' proposed motion and did not agree to withdraw the new report. Plaintiffs did articulate a basis for their position supporting the service of the September Report, but in the Commission's view did not accurately characterize the scope of the report. Finally, Plaintiffs did not provide the facts and data supporting the September Report. Among other things, the Commission has not been provided block-assignment or shape files of the new demonstration plans disclosed in the September Report.

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Respectfully submitted,

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