

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6400

Tariff filings of Mountain Cable Company, Better)
TV, Inc. of Bennington, FrontierVision Operating)
Partners, L.P., and Harron Communications Corp.)
re: revisions to line extension policy, which took)
effect July 10, 2000)

Order entered: 11/27/2000

FINDINGS AND ORDER

I. REPORT

On May 25, 2000, the following cable television companies filed revisions to their tariffs: Mountain Cable Company d/b/a Adelpia Cable Communications; Better TV, Inc. of Bennington d/b/a Adelpia Cable Communications; FrontierVision Operating Partners, L.P. d/b/a Adelpia FrontierVision Operating Partners and d/b/a Adelpia FrontierVision Partners; and Harron Communications Corp. d/b/a Adelpia Harron Cable Communications (collectively, "Adelpia"). The proposed revisions reflect changes to each company's line extension policy regarding the Qualifying Density for a new customer to qualify for a line extension without customer contribution-in-aid-of-construction, and payment of line extension costs above the estimated cost.

On June 23, 2000, the Vermont Department of Public Service ("Department"), pursuant to 30 V.S.A. § 225, informed the Board that it had several concerns involving Adelpia's filings and recommended that the Board reject the filings or in the alternative, that the filings be suspended and investigated. Adelpia filed a response to the Department's recommendation on July 3, 2000.

On July 10, 2000, the Board opened an investigation into the four tariffs, and set a prehearing conference. At the conference, held on July 24, 2000, counsel for Adelpia and the Department agreed that the only dispute concerned particular language in Section 2.24 of Adelpia's tariff. The tariff previously read:

The applicant's share of the total estimated cost of the line extension shall be based on the formula contained in subparagraph B. above [the so-called Newfane formula]. If the actual costs of the extension is [sic] more than [sic] *the estimate*, the applicant shall pay his share of the additional cost, *up to 10% over the original estimate*.

The tariff filing changed this language to:

The applicant's share of the total estimated cost of the line extension shall be based on the formula contained in subparagraph B. above. If the actual costs of the extension is [sic] more than [sic] *\$12,000 per mile*, the applicant shall pay his share of the additional cost, *prior to receiving service*. [Emphasis added]

Conversation among counsel revealed that the insertion of the \$12,000 figure was based upon Adelphia's understanding of certain language in the Board's Order in Dockets 6101 and 6223, entered April 28, 2000, and that compliance with that Order was the only motivation for the tariff filings in question. Finding 112 of that Order reads:

In the context of the statewide rebuild, the rounded cost per mile of the rebuild, \$12,000, is the appropriate number to use for the average cost of a line extension.

However, this finding was made in the context of determining an appropriate cost to use in calculating a statewide qualifying density level for the construction of free line extensions; it has no necessary bearing on the cost of any particular line extension. Under the Newfane formula, a customer who must pay a contribution-in-aid-of-construction for a line extension pays a portion of the *actual* cost of *that* line extension. Therefore, once it has been determined that the customer's area does not meet the qualifying density, any reference to the statewide average from Finding 112 is only confusing.

I conclude that the Board's Order reflects no intention of injecting the statewide average into the process of estimating or collecting actual costs for contributions-in-aid-of-construction, and that the proposed change in the tariff is not necessary for compliance with the Board's April 28 Order. The change of language in the second sentence, that deletes reference to a 10% limit on collections over estimates, was made only because Adelphia believed that the new method of estimation would lead to larger margins of error. It was clear from the discussions of counsel that both parties agreed that if Finding 112 did not mandate the proposed change in estimation procedures, the tariff section in question ought to remain wholly unchanged.

Adelphia indicated on the record that, based upon the Department's representations, it would switch back to providing estimates based upon reality rather than the statewide average, in anticipation of a Board order affirming that no such change had been necessary. If the Board adopts this proposal for decision, I recommend that Adelphia be required, within 30 days of the Board's order, to file tariffs that eliminate the changes noted above.

The foregoing is reported to the Public Service Board in accordance with the provisions of 30 V.S.A. § 8.

This Proposal for Decision has been served on all parties to this proceeding in accordance with 3 V.S.A. § 811.

Dated at Montpelier, Vermont, this 27th day of November, 2000.

s/John P. Bentley
John P. Bentley, Esq.
Hearing Officer

II. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The conclusions and recommendations of the Hearing Officer are accepted.
2. Adelpia shall file a tariff in compliance with this Order within 30 days.

DATED at Montpelier, Vermont, this 27th day of November, 2000.

s/Michael H. Dworkin)	PUBLIC SERVICE
_____)	
_____)	
s/David C. Coen)	
_____)	BOARD
_____)	
_____)	OF VERMONT

OFFICE OF THE CLERK

FILED: November 27, 2000

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or mail) of any technical errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.