

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6670

Petition of Vermont Department of Public Service)
for a Board investigation into the business)
practices of, and sanctions against, Gateway)
Cablevision Corporation, and for an order)
directing Gateway to show cause why its)
Certificate of Public Good should not be revoked)

Order entered: 5/9/2003

I. INTRODUCTION

Gateway Cablevision Corporation ("Gateway" or "the Company") serves customers in the towns of Dover and Whitingham. The system in Dover is the largest, with about 1800 customers; two other systems serve about 70 customers in sections of Whitingham.

On February 7, 2002, the Vermont Department of Public Service ("Department") petitioned the Public Service Board ("Board") to open an investigation into the business practices of Gateway Cablevision Corporation ("Gateway" or "the Company"), to impose sanctions on Gateway, and to direct Gateway to show cause why its Certificate of Public Good should not be revoked. Both parties conducted discovery and prefiled testimony of witnesses. A technical hearing was held on January 30, 2003, at which witnesses for the Department and the Company testified.

On March 21, 2003, the Department and the Company (collectively "the Parties") filed a settlement stipulation ("the Settlement") that, by its terms, resolves all outstanding issues between them. The Settlement, if approved, would impose sanctions and remedial measures designed to resolve any harm to customers and to the public at large stemming from the Company's past conduct.

II. THE SETTLEMENT

The Settlement is attached hereto as Attachment A. Its most important terms are as follows:

- Gateway is to make payments totaling \$35,000. Most of this sum is intended to be paid to subscribers as refunds for past service quality failures. Any excess will be paid to the Board as a penalty.
- A procedure is established for Gateway to attempt to resolve individual service quality complaints with customers; unresolved complaints may be brought to the Department, then to the Board.
- Gateway is to post a \$50,000 performance bond to guarantee its performance of a list of requirements, including repair of the antenna for one of its systems, establishment of adequate customer service facilities, timely filing of its annual reports and taxes, customer notifications, and proper filing of its tariff. A procedure is defined for triggering payments from the performance bond.

III. DISCUSSION

The testimony of the Department's witnesses at the technical hearing demonstrated that Gateway had repeatedly violated Vermont law and Board rules in several respects. The Company has:

- failed to provide advance notice to customers and to the Board and Department of changes in rates or programming;
- failed to file proper tariffs;
- failed to maintain a local telephone number listing;
- failed to notify the Board of a change in the Company's name;
- failed to comply with the Board's disconnection rules;
- failed to provide adequate customer service; and
- failed to submit annual reports and gross-receipts tax payments.

Some of these failures are more significant than others, and some have occurred over a longer period of time than others. The Company's witness argued persuasively that the problems were mostly a result of personnel changes and of lack of attention on his part. I conclude that the customers will be better served by a regimen that will gain and hold the system operator's attention (including a small refund and a performance bond) than they would by the revocation of

the Certificate of Public Good and a subsequent distress sale of the systems. Thus, I recommend that the Board approve the Settlement.

IV. CONCLUSION

The terms of the Settlement are consistent with the testimony received at the technical hearing. I therefore conclude that the Board ought to accept the Settlement in its entirety, and to close this investigation.

This Proposal for Decision is not adverse to the interest of any party; it has, therefore, not been served on the parties to this proceeding in accordance with 3 V.S.A. § 811.

Dated at Montpelier, Vermont, this 9th day of May, 2003.

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

V. ORDER

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

1. The conclusion of the Hearing Officer is adopted.
2. The Settlement between the parties, Gateway Cablevision Corporation and the Vermont Department of Public Service, is accepted.
3. As required by the Settlement, Gateway shall make a payment totaling \$35,000, to be paid to former and current subscribers as refunds, with any remaining balance paid to this Board no later than 90 days from the date of this Order.
4. Gateway shall file a performance bond in the amount of \$50,000 to guarantee its performance of Paragraph 5 of the Settlement, and to be paid in accordance with the procedures established in Paragraph 6 of the Settlement.
5. Gateway shall file a current tariff with the Board and the Department within 60 days of the date of this Order.
6. Gateway shall in all other respects carry out its obligations under the Settlement, which is attached hereto as Attachment A.
7. This investigation is closed.

Dated at Montpelier, Vermont, this 9th day of May, 2003.

<u>s/Michael H. Dworkin</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: May 9, 2003

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 in writing) of any apparent 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.