

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6604

Investigation into Tariff Filing of City of)
Burlington Electric Department re: Revisions)
to its Pole Attachments Tariff)

Order entered: 8/24/2005

I. INTRODUCTION

On October 19, 2001, the City of Burlington Electric Department ("BED") filed a proposed new pole attachment tariff, to take effect January 1, 2002. The Public Service Board ("Board") allowed that tariff to take effect subject to investigation in this docket. The Vermont Department of Public Service ("Department") participated as a statutory party; also participating was the New England Cable and Telecommunications Association ("NECTA").

The parties have engaged in extensive negotiations and have reached a settlement (the "Stipulation"). I have reviewed the Stipulation, the terms of which are summarized below, as well as the tariff that accompanies it, and agree that it provides for rates that are just and reasonable. I recommend that the Board approve it.

Pursuant to 30 V.S.A. § 8, and based upon the Stipulation, I present the following findings of fact and conclusions of law to the Board.

II. FINDINGS

1. BED is a Pole-Owning Utility within the definition of Board Rule 3.700, and is therefore subject to the provisions of that Rule.
2. The Stipulation provides for an attachment rate for a cable television operator that does not provide local exchange telephone service of \$9.00 per pole per year.
3. The rate for all other attachments, except those for incumbent local exchange carriers and electric utilities, is \$18.00 per pole per year.

4. For poles where BED is a joint owner, each of the above rates is to be multiplied by BED's percentage ownership.

5. Any attachment fees paid in excess of the amounts in Findings 2-4, above, since January 1, 2002, will be refunded to the attaching entities.

III. DISCUSSION

The parties still have unresolved issues about certain attachments that may be unauthorized, and about the proper classification of some attachments as cable attachments or some other type. The parties have agreed to attempt to resolve these issues, and will file a status report within 60 days of the date of this Order. The Stipulation is not a waiver by any party as to the type and classification of attachments and, if they are unable to resolve their issues informally, they may petition the Board for resolution.

IV. CONCLUSION

I conclude that the Stipulation provides an equitable settlement of the issues in this docket, and I recommend that the Board accept it and the tariff that accompanies it.

This Proposal for Decision is consistent in all respects with the Stipulation; on that condition, all parties have waived their rights to service under 3 V.S.A. § 811.

Dated at Montpelier, Vermont, this 23rd day of August, 2005.

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 Findings and Conclusion of the Hearing Officer are adopted.
2. The Stipulation of the parties is accepted.
3. The City of Burlington Electric Department shall file a tariff within thirty days that complies with the Stipulation.
4. This docket is remanded to the Hearing Officer to consider the unresolved issues pending between the parties.
5. The parties shall file a status report with the Board no later than sixty days after issuance of this Order.

Dated at Montpelier, Vermont, this 24th day of August, 2005.

<u>s/ James Volz</u>)	PUBLIC SERVICE BOARD OF VERMONT
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<u>s/ David C. Coen</u>)	
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)	
<u>s/ John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: August 24, 2005

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.