

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6605

Investigation into tariff filing of Central Vermont Public)
Service Corporation re: revisions to its Pole Attachment) Hearing at
Tariff) Montpelier, Vermont
April 24, 2006

Order entered: 11/16/2006

PRESENT: John P. Bentley, Esq., Hearing Officer

APPEARANCES: Morris L. Silver, Esq.
for Central Vermont Public Service Corporation

Alan D. Mandl, Esq.
Smith & Duggan L.L.P.
for New England Cable and Telecommunications Association

John J. Cotter, Esq.
for Vermont Department of Public Service

I. INTRODUCTION

This Docket concerns the pole-attachment rates charged by Central Vermont Public Service Corporation ("CVPS" or the "Company"). Those rates have been under investigation by the Public Service Board ("Board"), as recommended by the Vermont Department of Public Service (the "Department"), pursuant to an Order entered December 31, 2001. After several years' worth of meetings and negotiations the parties presented their respective cases in an evidentiary hearing in April, 2006. However, the parties continued to negotiate, and on October 5, 2006, they¹ filed the final version of a stipulation (the "Stipulation") that settles all remaining issues. In this proposed decision I recommend that the Board accept the Stipulation.

1. The Department did not join in the Stipulation; however, counsel did file a letter stating that the Department has no objection to Board approval of the Stipulation, providing such approval does not constitute an advance determination regarding the prudence of the Stipulation.

Pursuant to 30 V.S.A. § 8, and based on the record and evidence before me, I present the following findings of fact and conclusions of law to the Board.

II. FINDINGS

1. CVPS filed tariffs on November 1, 2001, (amended on November 14, 2001) setting an annual rate of \$10.26 for a solely-owned pole for an attachment that is presumed to occupy one foot of space. The rate for an attachment presumed to occupy two feet of space was set at \$20.52. These tariffs are in effect now. Exhs. CVPS-1, CVPS-Anderson-2.

2. The New England Cable and Telecommunications Association ("NECTA") sponsored testimony that recommended an annual rate of \$4.75 for a solely-owned pole for an attachment that is presumed to occupy one foot of space. Exh. PG-2.

3. In the Stipulation the parties jointly recommend that the Board approve an annual rate of \$7.00 for a solely-owned pole for an attachment that is presumed to occupy one foot of space, and a rate of \$14.00 for an attachment presumed to occupy two feet of space. Stipulation at 3.

4. Attached to the Stipulation is a revised tariff that the parties also ask the Board to approve. Stipulation Exhibit 1.

5. Both the rates and the terms and conditions in the proposed tariff reflect a bottom line settlement of the issues raised between the parties and are just and reasonable. The stipulated rates are below CVPS's currently effective rates, and also are below those in effect prior to the current rates. Stipulation at 4.

6. The stipulated rates are to be effective as of January 1, 2006. CVPS will credit the affected attaching entities after making adjustments to its billing determinants because of certain changes in the tariff. These changes include alteration of the methods to classify attachments as 1-foot or 2-foot. Stipulation at 4.

7. The Stipulation calls for CVPS to make refunds to its pole attachment customers that will resolve all claims and issues for the period commencing January 1, 2002, through December 31, 2005. The refunds will total \$519,159.69. *Id.* at 5.

8. CVPS will not seek an increase in the stipulated rates and NECTA and its members will not seek a decrease in the stipulated rates for a period of five years commencing January 1, 2006.
Id.

III. CONCLUSION

The parties to this docket have made what I have found to be a just and reasonable compromise of their respective interests. I conclude that the Board ought to approve the Stipulation, including the stipulated rates, tariff, and refunds.

This Proposal for Decision need not be served upon the parties to this proceeding in accordance with 3 V.S.A. § 811 because it is consistent with the Stipulation and it is not adverse to any party.

Dated at Montpelier, Vermont, this 14th day of November, 2006.

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

IV. 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 Board accepts and approves the Stipulation reached by and between Central Vermont Public Service Corporation and the New England Cable and Telecommunications Association, including the rates, terms and conditions, and refunds.
3. Central Vermont Public Service Corporation shall file with the Board tariff pages, consistent with the Stipulation (effective January 1, 2006), replacing the affected pages of its Pole Attachment Tariff within ten days of the date of this Order.
4. Approval of the Stipulation shall not be construed as an advance determination regarding the prudence of the Stipulation.

Dated at Montpelier, Vermont, this 16th day of November, 2006.

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

OFFICE OF THE CLERK

FILED: November 16, 2006

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: psb.clerk@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.