

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7177

Petition of Dig Safe System, Inc., pursuant to)
Board Rule 7.300, for designation as the 8-1-1)
service manager for the State of Vermont)

Order entered: 10/18/2006

I. INTRODUCTION & PROCEDURAL HISTORY

On April 26, 2006, Dig Safe System, Inc. ("Dig Safe") filed a petition ("Petition") with the Public Service Board ("Board") requesting designation as an N11 service manager in Vermont pursuant to Board Rule 7.300. Dig Safe seeks to implement the designation April 13, 2007. This Proposal for Decision recommends that the Board designate Dig Safe as the service manager for 8-1-1 service throughout Vermont.

On May 31, 2006, I convened a prehearing conference in this proceeding. Appearances were entered by: June Tierney, Esq., for the Vermont Department of Public Service ("Department"); and Richard Saudek, Esq., of Cheney, Brock and Saudek, P.C., for Dig Safe. None of the prehearing conference participants sought evidentiary hearings on Dig Safe's request for designation as service manager pursuant to Board Rule 7.300. On June 9, 2006, Dig Safe filed a Supplemental Petition supported by prefiled testimony of Robert Finelli. On August 23, 2006, I issued a procedural order granting the motions for intervention of Verizon New England Inc., d/b/a Verizon Vermont ("Verizon"), and AT&T Communications of New England, Inc. ("AT&T"). On September 11, 2006, Dig Safe filed a proposal for decision. On September 28, 2006, Dig Safe filed a letter on behalf of the parties in the docket stating that the parties had no objection to the adoption of the proposal for decision filed on September 11, 2006. In addition, the parties have waived service of this Proposal for Decision provided it is consistent in all material respects with the proposal for decision submitted by Dig Safe.

II. FINDINGS OF FACT

I present the following Findings of Fact to the Board, in accordance with 30 V.S.A. § 8.

A. Introduction and Background

1. Dig Safe is a non-profit corporation duly organized and existing under the laws of the Commonwealth of Massachusetts. Supp. Pet. at 1; Finelli pf. at 2.
2. Dig Safe is certified by the Board, pursuant to Board Rule 3.802, as the service provider for the one-call notification system for excavation activities to underground facility operators serving all of Vermont. Supp. Pet at 1-2; Finelli pf. at 2.
3. Dig Safe established 888-DIG-SAFE as its toll-free telephone number for receipt of notices from excavators during the designated hours of operation. Supp. Pet. at 2; Finelli pf. at 2-3.
4. On April 13, 2005, the Federal Communications Commission ("FCC") issued Final Rule 47 CFR Part 52 ("the FCC Order"). Supp. Pet. at 2; Tab A.
5. The FCC Order designated "811 as the national abbreviated dialing code to be used by state One Call notification systems for providing advanced notice of excavation activities to underground facility operators in compliance with the Pipeline Safety Act." Supp. Pet. at 2; Tab A.
6. The FCC Order provides that, as of May 13, 2005, the 811 number be used exclusively for access to state one call notification centers. Supp. Pet. at 3; Tab A.
7. Dig Safe requests that the Board designate it, under Board Rule 7.300, as the 8-1-1 service manager throughout the entire State of Vermont. Supp. Pet. at 2; Finelli pf. at 3.

B. Board Rule 7.303 Criteria

Organizational Structure and Management

8. Dig Safe is a non-profit corporation formed in 1981 to oversee the administration of a utility underground plant damage prevention system through notification to its members of proposed excavation in public ways and in privately owned land under which any member maintains underground facilities. Finelli pf. at 3; exhs. RF-1 (Articles of Incorporation), RF-2 (Bylaws).

9. Dig Safe members include natural gas pipeline companies, public utility companies, municipal utility companies, cable television companies and other entities that have an interest in protecting their underground facilities in the states of Maine, Massachusetts, Rhode Island, New Hampshire and Vermont. Finelli pf. at exh. RF-2.

10. Dig Safe is governed by a Board of Directors chosen by its members. *Id.*

Technical and Managerial Expertise

11. Dig Safe is the only damage prevention system operator ever approved pursuant to Board Rule 3.800 and has successfully operated the system for several years. Finelli pf. at 4.

12. Dig Safe's staff is comprised of persons with significant experience in the management of Vermont's one-call damage prevention notification system, providing sufficient technical and managerial expertise to administer the service. *Id.*

Sufficient and Stable Source of Funding

13. Dig Safe has sufficient and stable funding derived from dues, assessments and, if necessary, capital contributions that are assessed by its Board of Directors from its members. Finelli pf. at 4; exh. RF-2.

Implementation Date that Affords Affected Entities Sufficient
Time to Undertake Necessary Implementation Arrangements

14. The proposed implementation date of April 13, 2007, provides affected entities with sufficient time to undertake necessary implementation arrangements. Finelli pf. at 4.

Plan for Coordination of Services With Other N11 Service Managers,
Which Plan Demonstrates the Proposal Will Not Cause Any Undue
Technical Difficulty for Telephone Operators

15. Because Dig Safe services are unique and targeted to companies regularly engaged in excavation work, there should be no confusion with services provided by other Vermont N11 service providers. *Id.* at 4-5.

16. No potential technical difficulties were raised by telecommunications providers during the course of this proceeding. *Id.* at 5.

Plan for Public Education to Avoid Customer Confusion

17. Dig Safe has an extensive ongoing public awareness campaign that has made it well known throughout Vermont, particularly to the companies regularly engaged in excavation work. *Id.*

18. Dig Safe will include the 8-1-1 number as part of this campaign in the future. In addition, there are plans for a national 8-1-1 advertising campaign. *Id.*

Technical Proposal That is Consistent With Board Rule 7.303B for Routing N11 Calls

19. Dig Safe will provide telephone service providers with a toll-free number and in turn the telephone service providers will point any 8-1-1 calls to the toll-free number through the use of a translation in their switches. *Id.* at 5-6.

20. Dig Safe proposes to serve the entire State of Vermont from a centralized location; calls will not be routed to areas smaller than, or with boundaries inconsistent with, existing exchange boundaries or wireless coverage areas. *Id.*

21. Dig Safe has worked with the telephone companies serving Vermont, and anticipates no difficulty in working out the details of the necessary routing. *Id.*

Mechanism for Telephone Companies to Recover Costs Associated With the N11 Service

22. Dig Safe and Verizon are negotiating an agreement to cover any costs associated with implementation of the 811 number throughout Vermont. Dig Safe has reached agreement with all other carriers regarding implementation. *Id.* at 6.

Operational Plan for Ensuring Availability of Service 24 Hours Per Day, 7 Days Per Week

23. Pursuant to Vermont statutory requirements and the terms of its Board approval as the service provider for the one-call notification system for excavation activities, Dig Safe operates 24 hours a day, seven days a week. *Id.* at 6.

24. Dig safe maintains staff during normal business hours in its Woburn, MA call center and after hours at its disaster recovery site in Louisville, KY. *Id.*

Service Quality Proposal for Measuring Performance

25. Dig Safe operates according to the service quality standards required by 30 V.S.A. §§ 7001-7008 and Board Rule 3.800. *Id.*

26. The Department of Public Service monitors compliance with these standards. *Id.*

Proposal is Practical, Cost-Effective and Consistent With the Public Interest

27. Dig Safe's proposal is practical, cost-effective and consistent with the public interest because it will provide an easy to remember, easy to use, abbreviated dialing code for an existing eleven-digit number notification system. *Id.* at 2-7.

III. CONCLUSION

Board Rule 7.300 requires entities seeking designation as an N11 service manager in Vermont to file a petition with the Board.¹ The petition must identify the N11 code and the proposed geographic area coverage, and describe the use for the code. In addition, the petitioner is required to provide additional information in order to demonstrate compliance with certain prescribed standards. The standards include: a description of the petitioner's organizational structure; sufficient managerial and technical expertise; a stable funding source; a feasible implementation date; a workable plan for coordination with other N11 service managers in the area; a plan for public outreach; a proposal for routing the N11 calls; a proposal for the

1. Board Rule 7.300 at 7.303C.

mechanism by which the telephone companies will recover costs associated with the system implementation; twenty-four-hour a day availability; and a plan to ensure service quality. Based on the findings above, I conclude that Dig Safe has demonstrated that it will meet the standards required by Board Rule 7.300. In addition, no party has raised an objection to Dig Safe's designation as the 8-1-1 service manager throughout Vermont. Accordingly, I recommend that the Board designate Dig Safe as the service manager for 8-1-1 services throughout the State of Vermont.

The parties have waived their rights under 3 V.S.A. § 811, to file exceptions and present briefs and oral arguments.

DATED at Montpelier, Vermont, this 18th day of October, 2006.

s/Gregg C. Faber

Gregg C. Faber
Hearing Officer

IV. ORDER

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

1. The Hearing Officer's findings, conclusion, and recommendations are adopted.
2. Dig Safe System, Inc., is designated as the service manager for 8-1-1 services throughout the State of Vermont.

Dated at Montpelier, Vermont, this 18th day of October, 2006.

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

OFFICE OF THE CLERK

FILED: October 18, 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.