

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6224

Investigation into Universal)
Service Fund Charge for Fiscal)
Year 1999-2000)

Order entered: 5/28/99

I. INTRODUCTION

In accordance with 30 V.S.A. § 7523, the Vermont Public Service Board ("Board") must establish the Universal Service Fund surcharge rate for fiscal year 2000 (July 1, 1999 through June 30, 2000).¹ After consideration of the stipulation of the parties and testimony filed by the Vermont Department of Public Service ("Department" or "DPS"), I recommend that the Board adopt the terms of the stipulation and reduce the Universal Service Fund to a rate of 0.95 percent. This level of funding should be adequate to meet the funding obligations of the Vermont Universal Service Fund ("VUSF") programs for fiscal year 2000.

Procedural History

In accordance with 30 V.S.A. § 7523, the DPS petitioned on April 14, 1999, to set a rate for the VUSF to apply from July 1, 1999, through June 30, 2000. This petition was amended and testimony from the Department was provided on May 18, 1999. At that time, the Department proposed to establish a VUSF rate of 0.95 percent. A prehearing conference was also held on May 18, 1997. A stipulation of the parties,² including the Department, was

1. Under 30 V.S.A. § 7523, the Board is required to enter an order setting the rate for the coming fiscal year by June 15 unless the Vermont General Assembly does not enact an authorization amount for E-911 by May 15 of each year in which case the Board may defer its decision until 30 days after the E-911 authorization is established. Although not yet signed into law, the Vermont General Assembly approved an authorizing amount for E-911 on May 15, 1999.

2. The parties in this case include the Department of Public Service (the petitioner), United States Cellular, the nine independent telephone companies (Shoreham Telephone Company, Inc, Topsham Telephone Company, Inc., Waitsfield-Fayston Telephone Company, Inc. d/b/a Champlain Valley Telecom, d/b/a Waitsfield Telecom, Northfield Telephone Company, Perkinsville Telephone Company, Ludlow Telephone Company, Franklin Telephone Company, STE/NE Acquisition Corp. d/b/a Northland Telephone Company of Vermont, and Vermont Telephone Company, Inc.), New England Telephone and Telegraph Company, d/b/a Bell Atlantic-Vermont ("BA-VT"), and the E-911 Board. The Department, as the petitioner under § 7523(a), is a statutory party in this proceeding. A notice of appearance in this proceeding was also filed by counsel for United States Cellular on May 17, 1999. The nine independent telephone companies, BA-VT and the E-911 Board filed notices of appearance and appeared at the prehearing conference of May 18, 1999, and along with United States Cellular are granted party status in this proceeding.

A motion to waive PSB rule 2.201(c) was filed by Victor D. Del Vecchio, Esq. and Gregory M.

then filed with the Board on May 21, 1999.

Stipulation of the Parties

By Stipulation of May 21, 1999, the parties have agreed to lower the VUSF charge to 0.95%. The parties have also stipulated that the Hearing Officer may make findings in this docket that are consistent with the parties' stipulation and the testimony of the Department's witness with accompanying exhibits. The parties agree that the stipulation shall not have precedential impact on future proceedings involving the Department or the other parties. They also agree to other requirements regarding customer notification as described at Finding 14 and in the discussion of customer notification below.

II. FINDINGS

This docket does not present any contested issues of fact. A stipulation of the parties was filed with the Board on May 21, 1999.³ Based upon the stipulation of the parties and the prefiled testimony of the DPS, the Hearing Officer reports the following findings in accordance with 30 V.S.A. § 8.

Disbursements

Fiscal Agent

1. The estimated cost for compensation of the fiscal agent from July 1, 1999, through June 30, 2000, is \$90,000. Frankel pf. at 3; exh. DPS__DLF-1.

Telecommunications Relay Service

2. Funds to support the Vermont Telecommunications Relay Service ("VTRS") are distributed to the state treasurer, in an amount determined by the Commissioner of Public Service to be reasonable. 30 V.S.A. § 7512.

3. The DPS has estimated that funding of \$516,656 is needed for VTRS for fiscal year ("FY") 2000. This number is based on an estimated growth rate of five percent over FY99. The Department is currently negotiating a new contract for outreach services to increase awareness, and usage, of VTRS. Frankel pf. at 3; exh DPS__DLF-3.

Kennan, Esq. to serve as co-counsel of record to BA-VT in this proceeding. BA-VT Motion filed May 17, 1999. The motion by BA-VT counsel is hereby granted.

3. See, Letter and Attachments filed May 21, 1999.

4. In addition, the DPS has included \$75,000 for a VT-EDP adaptive equipment distribution program associated with VTRS that was authorized by 30 V.S.A. § 218a(e). A contract, approved by the Board, between the DPS and the Vermont Center for Independent Living establishes a payment schedule for the program which will expend the full amount authorized by statute during FY2000. Frankel pf. at 3-4; exh. DPS__DLF-1.

Lifeline

5. Funds to support the Vermont Telephone Lifeline Program are distributed to telecommunications service providers that issue Lifeline credits to end-users. 30 V.S.A. § 7513.

6. The DPS projects the distribution of Lifeline credits to be \$1,139,837 for fiscal year 2000. Frankel pf. at 3; exhs. DPS__DLF-1, 2.

7. This Lifeline credit distribution amount was derived by projecting enrollment trends in the Lifeline program, including the effect of Act 135 of the 1998 Vermont General Assembly. While the effect of Act 135 should increase enrollment in Lifeline by 10 percent, there is a decrease in renewals by persons 65 and older. FY2000 Lifeline projections assume the program will recover a portion of missing senior renewals through publicity and other efforts. The FY2000 projection increases the February 1999 enrollment by 5 percent throughout FY2000 because the seniors who failed to renew were still enrolled as of that date, thereby recapturing the likely future (April-December) renewals and accounting for the projected 10 percent increase in the Lifeline enrollment resulting from Act 135 enrollment process changes. Frankel pf. at 3, 5-6.

8. The estimated Lifeline administrative cost reimbursement amount was set at \$105,000. This amount is unchanged from the projected level for FY99. Frankel pf. at 3; exh. DPS__DLF-1.

Enhanced 911

9. Funds to support Enhanced-911 ("E-911") services will be paid by the fiscal agent to the state treasurer for deposit into the E-911 special fund. 30 V.S.A. § 7514.

10. The DPS estimates distributions to the E-911 program in the amount of \$3,024,121. This amount was derived from H.544, the Appropriations bill as passed by both houses of the 1999 General Assembly, that sets the amount to be transferred from the VUSF

to E-911.⁴ Frankel pf. at 4; exh. DPS__DLF-1.

Total Program Disbursements

11. Total program disbursements for VUSF program obligations during fiscal year 2000 are projected to be \$4,950,614. Frankel pf. at 4; exh. DPS__DLF-1.

Revenues

12. The fiscal agent provides the DPS with projections of total telecommunications revenue for all Vermont companies for the current fiscal year. The DPS indicates that, on the basis of the fiscal agent's projections, estimated telecommunications service FY99 revenues (based on collections from July 1, 1997, through March 1998) at \$392,637,945, a 6.58 percent growth over FY98. On the basis of the FY98 growth rate, the fiscal agent recommends a similar growth rate for FY2000. The DPS has not fully adopted the fiscal agent's growth rate recommendation. The Department maintains that this rate of growth fails to take into account the possibilities that the alternative regulation plan under consideration in Docket 6167 may reduce rates for the majority of Vermonters and that increased usage will not offset declining toll prices. Consequently, the DPS has utilized a rate of 3.5 percent growth to obtain its total revenue projection for FY2000. Frankel pf. at 4; exh. DPS__DLF-1.

13. The estimate of the fund balance that VUSF will carry forward on July 1, 1999, is \$1,288,698. Frankel pf. at 2; exh. DPS__DLF-4.

Customer Notification Requirements

14. The following customer notification requirements are reasonable:

- a. Each telecommunications service provider shall provide a notice, describing the VUSF and the continuing rates in the first bill that includes the new USF charge for FY2000. If, because of timing difficulties, a telecommunications provider is unable to send the notice with its first bill implementing the new rate, then the provider shall send it with its bills as soon as is feasible following the rate change;
- b. The VUSF notice will include information concerning the Vermont

4. Section 92 of House Bill 544 contains an appropriation of \$2,086,399 for the Enhanced 911 Board. Section 81(e) of the Bill contains an additional appropriation of the Universal Service Fund for use to support "activities directly related to enhanced 911" by Public Safety; I infer from the testimony of witness Frankel that this balance is equal to \$937,722 (\$3,024,121 - \$2,086,399).

- Telecommunications Relay Service and the Lifeline Telephone Program;
- c. The LECs will provide notification to consumers of the Lifeline Telephone Program eligibility criteria and application process during either of the first two months of calendar year 2000;⁵ and
 - d. The notices shall be in the form prescribed by the DPS.

Frankel pf. at 6-7; Stipulation at ¶4.

III. DISCUSSION

Disbursements

There is no dispute over the issue of funding the fiscal agent. The estimates of costs for fiscal agent services total \$90,000.

The Department's estimate of Telecommunications Relay Service costs are not in dispute. The anticipated cost is \$516,656. \$75,000 for VT-EDP adaptive equipment distribution program also associated with VTRS, as established by 30 V.S.A. 218a(e) is also not in dispute.

The DPS requests \$1,244,837 to cover the costs associated with the distribution of Lifeline credits. No parties have contested this projection.

The Department has asked the Board to set a VUSF rate that includes the \$3,024,121 appropriated for E-911. This figure is not contested either.

30 V.S.A. § 7511 specifies the amounts and manner of disbursements by the fiscal agent. It is estimated that a total of \$4,950,614 will be distributed as described below:

- a. \$90,000 to pay costs payable to the fiscal agent under its contract with the Board. Finding 1.
- b. \$591,656 to support the Vermont Telecommunications Relay Service in the manner provided by § 7512 of Title 30. Findings 2-4.
- c. \$1,244,837 to support the Vermont Lifeline program in the manner provided by § 7513 of Title 30. Findings 5-8.
- d. \$3,024,121 to support enhanced-911 services in the manner provided by § 7514 of Title 30. Findings 9-10.

5. Notification during these months will be particularly important, in order to inform persons who may apply through the Tax Department's tax package issued early in January. Frankel pf. at 7.

Revenue

The current VUSF charge of 1.06% has resulted in revenues sufficient to cover all program costs and yield a significant year-end balance. The Department monitors the monthly revenue, disbursements, and the fund balance of the VUSF and can petition the Board to reopen the docket if expected revenue levels are at variance with funding requirements. I recommend adopting the Department's proposal to establish the FY2000 Universal Service Fund rate utilizing FY99 revenues increased by a 3.5 percent growth factor. Given these facts, I conclude that the proposed rate of 0.95 percent will be adequate to meet the funding obligations of the program.

The VUSF surcharge rate for fiscal year 2000 should be 0.95 percent. This will meet all of the funding needs identified by the General Assembly in 30 V.S.A. § 7511(a). This finding is based upon:

- a. An anticipated Fund balance on June 30, 1999, of \$1,288,698.
Finding 13.
- b. Anticipated total disbursements during the year of \$4,950,614.
Finding 11.
- c. An anticipated remaining Fund balance on June 30, 2000, of \$198,697.

Customer Notification Requirements

There is no dispute concerning the customer notification requirements. Informing customers of service opportunities ensures broad opportunity for program participation by all qualifying ratepayers. I recommend that the Board adopt and order these notification requirements.

Opportunity to File Exceptions and Present Arguments

The parties have waived their opportunity to file exceptions and present arguments pursuant to 3 V.S.A. § 811.

Dated at Montpelier, Vermont, this 28th day of May, 1999.

s/ J. Riley Allen

J. Riley Allen
Hearing Officer

ORDER

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

1. The findings and recommendations of the Hearing Officer are adopted.
2. The Vermont Universal Service Fund charge shall be 0.95 percent. This rate shall go into effect July 1, 1999, and remain in effect through June 30, 2000, unless revised in the manner provided by law.
3. Each telecommunications service provider required to collect the USF charge shall include a notice providing relevant information about the VUSF charge when it sends customers their first bill that includes the revised VUSF Charge. If, because of timing difficulties, telecommunications providers are unable to send such notice with the first bill, they shall send it with their bills as soon as is feasible following the revised VUSF charge. Local exchange carriers shall also include in the VUSF notice information concerning the Vermont Telecommunications Relay Service and the Vermont Telephone Lifeline Program. In addition, local exchange carriers shall provide notification of the Lifeline eligibility criteria and application process during either of the first two months of calendar year 2000. All notices shall conform to the recommendation of the DPS. If, after negotiation, a telecommunications service provider and the DPS cannot agree on the form of the notice, then the parties can petition the Board for resolution of the conflict.
4. The fiscal agent shall pay the following amounts for fiscal year 2000, and according to the following priority:
 - a. The fiscal agent shall transfer to its own account not more than \$90,000, but in no event shall transfer more than permitted under the contract between the Board and the fiscal agent.
 - b. The fiscal agent shall transfer to the State Treasurer, in monthly payments, the annual sum of \$591,656 to support the Vermont Telecommunications Relay Service.
 - c. The fiscal agent shall recognize legitimate claims from local exchange carriers for credits and reimbursable expenses under the Vermont Lifeline program. It is anticipated that the annual total of all such claims will amount to \$1,244,837.
 - d. The fiscal agent is authorized to make monthly transfers to the State

Treasurer to support enhanced-911 services at an annual rate of \$3,024,121.

5. The Board shall retain jurisdiction over this docket to make any further orders that may be required to administer the Vermont Universal Service Fund. J. Riley Allen is designated as Hearing Officer to consider and report upon any further proceedings that may be appropriate in this docket.

DATED at Montpelier, Vermont, this 28th day of May, 1999.

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

OFFICE OF THE CLERK

FILED: MAY 28, 1999

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 of any technical errors, in order that any necessary corrections may be made.

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.