

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 5940

Tariff Filing of New England Telephone)
and Telegraph Company d/b/a NYNEX)
increasing the Local Coin Rate for)
Pay Telephones)

AND

Docket No. 5702

Petition of Department of Public Service)
for an Investigation of New England)
Telephone and Telegraph Company Rates)

Order entered: 2/3/2000

ORDER RE: REFUND

On December 28, 1999, the Public Service Board ("Board") issued final Orders in each of these proceedings to address funds that New England Telephone and Telegraph Company d/b/a Bell Atlantic-Vermont ("Bell Atlantic") had previously been required to set aside. Those Orders directed Bell Atlantic to reduce its intrastate access rates by \$1.671 million annually.¹

In addition, the Orders directed Bell Atlantic to:

submit a plan for refunding principal and interest associated with the deferral of the rate reductions in Docket 5940 and Docket 5702. The refund plan shall be consistent with the methodology employed in Docket 5702. At the same time, Bell Atlantic shall also submit a calculation of the refund amounts, calculated in accordance with this Order.²

On January 12, 2000, Bell Atlantic filed a Calculation of Refund Amount and Proposal for Refund. In that filing, Bell Atlantic did not submit a refund plan consistent with the methodology employed in Docket 5702 (as ordered). Instead, the Company's Proposal for Refund sought to defer the refund again, setting it aside "for use in the deployment of

1. Bell Atlantic submitted a tariff filing on January 12, 2000, to effectuate the required switched access rate reduction. That rate change took effect on January 31, 2000.

2. Docket 5702, Order of 12/28/99 at 16; Docket 5940, Order of 12/28/99 at 16.

Continuous Emergency Access in Vermont.”³ The Department of Public Service ("Department") responded to Bell Atlantic's filing on January 26, 2000. According to the Department, Bell Atlantic has not shown that it will incur any costs associated with meeting its Continuous Emergency Access obligation. In addition, given the amount of time that has passed since the original set aside commenced (in 1995), the Department recommends that the Board reject Bell Atlantic's proposal and direct the Company to issue refunds by way of bill credits.

We hereby reaffirm our original Orders and direct Bell Atlantic to issue refunds to its customers based upon the methodology employed in Docket 5702. Our previous Orders were quite clear in directing the Company to refund the money to customers and requesting the Company to file a plan consistent with the methodology we had already adopted. Bell Atlantic has not presented any rationale for revising the previous decisions. At this time, Bell Atlantic has not shown the amount of costs (if any) that it will incur to meet its Continuous Emergency Access obligation, or that other mechanisms for allowing Bell Atlantic to recover such costs will be inadequate. Instead, the Company's proposal would continue to defer refunds to customers of money that Bell Atlantic has been holding for as long as five years. We do not find further deferral reasonable.

On January 27, 2000, Bell Atlantic also filed a request that the Board stay any obligation by Bell Atlantic to make monetary refunds until the Board issues its decision on the Company's proposal (discussed above).⁴ If the Board rejects Bell Atlantic's proposal, the Company requests that the Board grant a minimum of 45 to 60 days from the final order date until the first billing cycle when the refund is to occur. The Department, by letter dated January 28, 2000, opposed Bell Atlantic's request, asserting that Bell Atlantic had not met any of the requirements for a stay.

3. Bell Atlantic Proposal at 2. Since the Board previously directed the Company to issue refunds and specified the methodology for doing so, we consider Bell Atlantic's Motion as essentially a Motion for Reconsideration.

4. The Board's Order had directed the Company to begin issuing refunds "promptly, preferably commencing in the billing cycles immediately following February 15, 2000."

Although we agree with the Department that Bell Atlantic has failed to demonstrate irreparable harm from issuing refunds as originally ordered, we recognize that Bell Atlantic will need to make changes to its billing system to effect the refund. We do not, however, agree that the additional delay of 45-60 days requested by Bell Atlantic is reasonable, particularly given our clear direction in the December 28, 1999, Orders for the Company to issue refunds.⁵ Bell Atlantic has already had more than 30 days to make changes to its billing system. Nonetheless, in light of the timing of this Order, we will modify our original Orders to require Bell Atlantic to commence refunds by the first billing cycle of March 2000. Within 15 days of the date of this Order, Bell Atlantic shall submit its plan for refunding principal and interest; as we originally ordered, the refund plan shall be consistent with the methodology employed in Docket 5702.

Finally, on January 12, 2000, Bell Atlantic submitted a calculation of the refund amount. The Board has reviewed the filing and approves Bell Atlantic's calculation. Bell Atlantic should adjust the total to reflect an additional one month of interest (February 2000).

SO ORDERED.

5. In fact, those Orders provided Bell Atlantic 45 days to make the billing system changes.

DATED at Montpelier, Vermont, this 3rd day of February, 2000.

s/Michael H. Dworkin)

) PUBLIC SERVICE

s/Suzanne D. Rude)

) BOARD

s/David C. Coen)

) OF VERMONT

OFFICE OF THE CLERK

FILED: February 3, 2000

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.