

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6378

Investigation into Universal Service)
Fund Charge for Fiscal Year 2001)

Order entered: 6/5/2000

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 2001 (July 1, 2000, through June 30, 2001).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 set the Universal Service Fund surcharge at the rate of 1.24 percent. This level of funding should be adequate to meet the funding obligations of the Vermont Universal Service Fund ("VUSF") programs for fiscal year 2001.

Procedural History

In accordance with 30 V.S.A. § 7523, the DPS petitioned on April 14, 2000, to set a surcharge rate of 2 percent for the VUSF for the fiscal year beginning July 1, 2000. On May 26, 2000, the DPS submitted testimony modifying its recommendation to reflect a surcharge rate of 1.24 percent.

Stipulation of the Parties

By Stipulation of May 26, 2000, the parties have agreed to set the VUSF charge at 1.24 percent.² The parties have also stipulated that the Hearing Officer may make findings in this

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

2. The parties in this case include the Department of Public Service (the petitioner), RCC Atlantic, Inc. d/b/a Cellular One, the nine independent telephone companies (Shoreham Telephone Company, Inc., Topsham Telephone Company, Inc., Waitsfield-Fayston Telephone Company, Inc. d/b/a Champlain Valley Telecom and 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, and the E-911 Board.

docket that are consistent with the parties' stipulation and the testimony of Department witness, Deena Frankel, and exhibits DPS__DLF-1 through DPS__DLF-2, filed with the Board on May 26, 2000, regarding the USF's carry-over fund balance from the previous fiscal year, the revenue base and disbursement requirements. The parties agree that the stipulation shall not have precedential effect 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. 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 Agent³

1. The estimated cost for compensation of the fiscal agent from July 1, 2000, through June 30, 2001, is \$101,000. 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 \$699,286 is needed for VTRS for fiscal year 2001. This number is based on current calling trends, projections by the program's vendor, and the anticipated introduction during the fiscal year of 711 as the access number for relay. The number includes \$50,000 for outreach expenses provided through a contract with KSV Communicators. Frankel pf. at 4; exh. DPS__DLF-1.

4. In addition, the DPS has included \$75,000 for a VT-EDP adaptive equipment distribution program associated with VTRS that is authorized by 30 V.S.A. § 218a(e). This

3. The National Exchange Carrier Association (NECA) is currently the fiscal agent for the VUSF.

program is administered through a Board-approved contract between the Department and a private vendor. Frankel pf. at 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 \$1,277,425. Frankel pf. at 3; exh. DPS__DLF-1, 2.

7. This Lifeline credit distribution amount was derived by projecting enrollment trends in the Lifeline program. The amount takes into account a new Lifeline benefit, established by the Vermont Legislature in the FY-01 Appropriations Act, providing non-published numbers to Lifeline-eligible persons who have final court-granted relief from abuse orders. Frankel pf. at 3; exh. DPS__DLF 2.

8. The estimated Lifeline administrative cost reimbursement amount was set at \$105,000. This amount is unchanged from the projected level for FY-00. 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 \$3,391,061. This amount was derived from H.842, the Appropriations bill as passed by both houses of the 2000 General Assembly, that sets the amount to be transferred from the VUSF to E-911. Frankel pf. at 4; exh. DPS__DLF-1.

Total Program Disbursements

11. Total program disbursements for VUSF program obligations during fiscal year 2001 are projected to be \$5,648,772. 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 annualized projections, estimated telecommunications service FY-00 revenues (based on collections from July 1, 1999, through February 29, 2000) at \$421,045,634, a 6.57 percent growth over FY-99. On the basis of the FY-00 growth rate, the fiscal agent recommends a similar growth rate for FY-01. The DPS has utilized the growth rate projected by the fiscal agent to obtain its total revenue projection for FY-01. Frankel pf. at 4; exh. DPS__DLF-1.

13. The estimate of the fund balance that VUSF will carry forward on July 1, 2000, is \$200,000. Frankel pf. at 2; exh. DPS__DLF-1.

Customer Notification Requirements

14. The DPS recommends the following customer notification requirements:

- 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 FY-00. 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 Telecommunications Relay Service and the Lifeline Telephone Program;
- c. The local exchange carriers 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 2001;⁴ and
- d. The notices shall be in the form prescribed by the DPS.

Frankel pf. at 5-6.

4. 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.

III. DISCUSSION

Disbursements

There is no dispute over the issue of funding the fiscal agent. The estimates of costs for fiscal agent services total \$101,000.

The Department's estimate of Telecommunications Relay Service costs are not in dispute. The anticipated cost is \$699,286.

The DPS requests \$1,277,425 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 \$3,391,061 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 \$5,648,772 will be distributed as described below:

- a. \$101,000 to pay costs payable to the fiscal agent under its contract with the Board. Finding 1.
- b. \$699,286 to support the Vermont Telecommunications Relay Service in the manner provided by section 7512 of Title 30. Findings 2-3.
- c. \$1,277,425 to support the Vermont Lifeline program in the manner provided by section 7513 of Title 30. Findings 5-7.
- d. \$105,000 is the required administrative cost reimbursement for the Vermont Lifeline program. Finding 8.
- e. \$3,391,061 to support enhanced-911 services in the manner provided by section 7514 of Title 30. Findings 9-10.
- f. The estimated TTY distribution expense is \$75,000 authorized by 30 V.S.A. § 218a(e). Finding 4.

Revenue

The current VUSF charge of 0.95 percent has resulted in revenues sufficient to cover all program costs and yield small 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. Given these facts, I conclude

that the proposed rate of 1.24 percent will be adequate to meet the funding obligations of the program.

The VUSF surcharge rate for fiscal year 2001 should be 1.24 percent.⁵ 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, 2000, of \$200,000.
Finding 13.
- b. Anticipated total disbursements during the year of \$5,648,772.
Finding 11.

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.

Waiver of Advance Notice Requirement

The DPS recommended that the Board in this instance waive the requirement for advance notice of changes in rates, terms, and conditions of service established by the final order in Docket 5903 (to the extent it is applicable to the VUSF surcharge). The Department reasons that advance notification of the VUSF rate cannot serve the purpose of permitting consumers to choose an alternate company if they object to the increase because all telecommunications services provided to Vermont customers are subject to the charge. Frankel pf. at 6.

The parties seek a waiver, limited to this docket only, of the requirement of advance notice imposed by the Board's final order in Docket 5903 (to the extent that it applies to the VUSF surcharge). No party disputes this request. I recommend that the Board grant this waiver.

5. For the last fiscal year, FY 2000, a prior fiscal year anticipated balance of \$1.3 million together with estimated disbursements of \$4.95 million required a rate of 0.95 to assure adequate funding. *See*, Docket 6224, Order of 5/28/99 at 6. For fiscal year 2001, estimated disbursement levels are anticipated to increase over last year's estimates. Together with a significantly smaller fund balance from FY 2000, requires a VUSF rate of 1.24 percent above the rate of 0.95 percent established for the prior fiscal year.

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 2nd day of June, 2000.

s/J. Riley Allen

J. Riley Allen
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 recommendations of the Hearing Officer are adopted.
2. The Vermont Universal Service Fund charge shall be 1.24 percent. This rate shall go into effect July 1, 2000, and remain in effect through June 30, 2001, 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. The requirement to provide advance notice of rates, terms, and conditions of service is waived in this instance to provide that, 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 2001. 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 2001, and according to the following priority:
 - a. The fiscal agent shall transfer to its own account not more than \$101,000, 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 \$699,286 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 \$1,277,425.

- d. The fiscal agent is authorized to make monthly transfers to the State Treasurer to support enhanced-911 services at an annual rate of \$3,391,061.

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 5th day of June, 2000.

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

OFFICE OF THE CLERK

FILED: June 5, 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 (by e-mail, telephone, or mail) of any technical 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.