

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6499

Investigation into Petition of Vermont)
Department of Public Service for Universal)
Service Fund Charge for Fiscal Year 2002)

Order Entered: 6/27/2001

I. INTRODUCTION

The Vermont Public Service Board ("Board") is charged with setting the annual Universal Service Fund ("USF") surcharge rate. 30 V.S.A. § 7523. This Docket was opened to set this rate for Fiscal Year 2002 (July 1, 2001, through June 30, 2002).¹ After consideration of the Stipulation of the parties and testimony filed by the Vermont Department of Public Service ("Department" or "DPS"), I recommend the Board adopt the terms of the Stipulation and set the Fiscal Year ("FY02") Universal Service Fund surcharge at the rate of 1.65 percent, its current level. This level is projected to provide adequate funds to meet the projected financial obligations of the Vermont Universal Service Fund ("VUSF") programs for Fiscal Year 2002.

Procedural History

In accordance with 30 V.S.A. § 7523, the DPS filed a petition on April 11, 2001, to set a USF surcharge rate of 2.0 percent for the fiscal year beginning July 1, 2001. After establishment of the E-911 appropriation by the Vermont General Assembly on June 3, 2001, the DPS submitted testimony modifying its recommendation, asking instead for a surcharge rate of 1.65 percent. On June 12, 2001, the parties submitted a Stipulation agreeing to set the USF surcharge at 1.65 percent, and attached a proposed Board Order with the Stipulation. The parties have also stipulated that the Hearing Officer may make findings in this Docket that are consistent with the Stipulation and the testimony of Department witness Deena Frankel and exhibits DPS-dlf-1 through DPS-dlf-3, filed with the Board on June 12, 2001, regarding the USF's carry-over fund balance from the previous fiscal year, the revenue base, disbursement requirements, and projected

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 that year, in which case the Board may defer its decision until 30 days after the E-911 authorization is established.

FY02 ending fund balance. The parties agree that the Stipulation shall not have precedential effect on future proceedings involving the Department or the other parties. They have also agreed to customer notification requirements.

A technical hearing was held on June 14, 2001, at which Deena Frankel of the DPS presented testimony in favor of the continuation of the 1.65 percent surcharge rate.

II. FINDINGS

This docket does not present any contested issues of fact. Based upon the Stipulation of the parties, the evidence of record and the testimony presented by the DPS at the technical hearing, I report the following findings in accordance with 30 V.S.A. § 8.

Projected Disbursements

Fiscal Agent²

1. The estimated cost for compensation of the fiscal agent from July 1, 2001, through June 30, 2002, is \$105,000. In addition, the annual audit of the VUSF will cost \$25,000, pursuant to the contract between the fiscal agent and the Board. 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. Funding of \$540,795 is projected for VTRS for FY02. This number is based on current calling trends and forecasts supplied by the program's vendor. The number includes \$50,000 for outreach expenses to be provided through a contract with KSV Communicators. Only \$30,000 of the \$50,000 in outreach expenses is shown on the Department's exhibit because the remaining \$20,000 is covered by a credit in this amount billed by AT&T Corp., the currently contracted VTRS provider. Frankel pf. at 4; exh. DPS-dlf-3.

4. In addition, \$75,000 of FY02 VUSF funds is allocated for a VT-EDP adaptive equipment distribution program associated with VTRS that is authorized by 30 V.S.A. § 218a(e).

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

This 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 distribution of Lifeline credits for FY02 is expected to be \$1,441,355. This Lifeline credit distribution amount was derived by projecting enrollment trends in the Lifeline program, taking into account Lifeline credits reimbursed by the state fund, as well as the benefit established by the 2000 General Assembly providing non-published numbers to Lifeline-eligible persons who also have final court-granted relief from abuse orders. This latter benefit was not used during FY01, the first year in which it was available, and a minimal amount of \$5,000 is reflected in the FY02 projection. Frankel pf. at 3; exhs. DPS-dlf-1, 2.

7. The estimated Lifeline administrative cost reimbursement amount is \$150,000. The amount is a 50 percent increase above the FY01 expense level. The increase is reflective of actual FY01 year-to-date reimbursement expenses submitted to the fiscal agent by the local exchange companies. Frankel pf. at 3; exh. DPS-dlf-1.

8. The FY01 increase in Lifeline administrative expense was primarily the result of a \$75,984 reimbursement to Verizon in the month of January, 2001, in comparison to average monthly reimbursements of less than \$10,000. The bulk of this one-time amount was actually for credits, not administrative expenses, and was caused by an unusually high level of adjustments resulting from the annual true-up process of the participant rolls between the local exchange companies ("LECs") and the Department of Prevention, Assistance, Transition and Health Access ("PATH"), formerly the Department of Social Welfare. Frankel pf. at 3-4.

9. The FY01 corrections extended back to the prior fiscal year, and it was impossible to adjust monthly credit amounts. Frankel pf. at 3-4.

10. Although a lower level of corrections is expected in FY02, there continues to be a high level of retroactive corrections caused by problems with PATH's procedures. Frankel pf. at 4.

11. A task force of LECs, PATH, the Vermont Department of Taxes and DPS representatives is analyzing and attempting to improve the Lifeline administrative process. This

project will take at least a full year to bring about significant change. In the meantime, the FY02 administrative expense estimate has been increased to ensure adequate funding. Frankel pf. at 4.

Enhanced 911

12. 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.

13. FY02 disbursements to the E-911 program will be \$3,181,929 and \$400,000, totaling \$3,581,929. These amounts were derived from the Appropriations Act (H. 485) and the Capital Spending Act (H. 478), 2001 General Assembly respectively, which establish the amount that may be transferred from VUSF to E-911. Frankel pf. at 4; exh. DPS-dlf-1; (30 V.S.A. § 7514).

14. Both H. 485 and H. 478 have been passed by the General Assembly. H. 478 has been enacted into law. The DPS expects H. 485 to become law but will petition the Board immediately for stay of this Docket if it is not. Frankel pf. at 4, n. 3.

Total Program Disbursements

15. Total program disbursements for VUSF program obligations during FY02 are projected to be \$5,919,079. Frankel pf. at 4; exh. DPS-dlf-1.

16. Based on actual program disbursements through February 2001, and estimates for the remainder of FY01, total VUSF program disbursements during FY01 are expected to be \$5,499,904. Frankel pf. at 4; exhs. DPS-dlf-1-3; Docket 6378, Order of 12/21/00.

Revenues and Fund Balance

17. Telecommunications service revenues increased in FY01 (based on collections through March, 2001) by 4.97 percent over FY00 levels. Frankel pf. at 5.

18. For the purpose of ensuring the integrity of the USF, the FY02 USF rate should be set using a more conservative telecommunications service revenue growth rate of 2.0 percent. Frankel pf. at 5; exh. DPS-dlf-1.

19. A projected 2.0 percent growth rate will produce a forecast FY02 telecommunications revenue base of \$413,852,291. Frankel pf. at 5; exh. DPS-dlf-1.

20. A FY02 USF surcharge rate of 1.65 percent, the same as the current rate, will produce USF revenues of \$6,828,563. Frankel pf. at 5; exh. DPS-dlf-1.

21. The beginning fund balance for FY02 is expected to be \$246,947. Frankel pf. at 5;

exh. DPS-dlf-1.

22. The beginning fund balance, plus the FY02 revenue generated by the proposed surcharge rate, less projected program expenses, will leave a fund balance of \$1,156,431 at the end of FY02. Frankel pf. at 5-6; exh. DPS-dlf-1.

23. The size of this fund balance represents a significant departure from previous years' fund balances, when the policy was to keep the carryover USF fund balance at a minimum. The proposed change is due to FY01's cash shortfall, which necessitated a midyear adjustment in the rate. In addition, there is an increased understanding of certain fund administration and cash flow issues faced by NECA which indicates that maintenance of a higher fund balance is appropriate. Frankel pf. at 6.

24. The projected fund balance calculation includes two components. The first is an amount equal to one and one half months of disbursements to serve as a cushion to ensure adequate cash flow. This component requires \$739,885. The second is a regular fund balance of \$416,546 which is within the range of past years' amounts. This component is intended to provide some protection against modest differences between projected and actual disbursements. For example, it would guard against a large unanticipated increase in Lifeline enrollment or VTRS call volume having a deleterious impact on the fund. Frankel pf. at 6-7; exh. DPS-dlf-1.

25. Avoiding the cost of sending a notice of a surcharge rate change is an additional factor supporting the parties' recommendation that the current rate of 1.65 percent be maintained for FY02. Although projection of a somewhat smaller year-end fund balance could be justified, it would produce only a slight — no more than 0.05 percent — drop in the rate, which would translate into a 2.5 cent difference on a \$50 telephone bill. Frankel pf. at 7.

Customer Notification Requirements

26. Based on the agreement by the parties, LECs are required to provide notification to their customers of the eligibility criteria and application process for the Lifeline Telephone Program during either of the first two months of calendar year 2002 in a form prescribed by the DPS. Frankel pf. at 7; Stipulation at ¶¶ 3-4.

27. There is no need for a notice of rate change, which in the past has been sent to consumers in the month of July or August, because the recommended rate of 1.65 percent for

FY02 is the same rate that is currently in effect for FY01.³ Frankel pf. at 7; Stipulation at ¶ 5.

III. DISCUSSION AND CONCLUSIONS

The table below reflects the proposed line item disbursements forecast for the VUSF in FY02, along with the estimated starting and ending FY02 fund balances, based on the stipulated 1.65 percent surcharge. In total, the projected disbursements for FY02 are 7.6 percent above FY01 forecasts, as estimated using actual disbursement levels for a portion of FY01.⁴ There are no disputes as to any of these figures.

Estimated FY01 Carryforward Fund Balance	\$ 246,947
Projected FY02 Surcharge Collections	<u>6,828,563</u>
Total Funds Projected to be Available	\$7,075,510
Projected Disbursements:	
Fiscal Agent Services	105,000
Annual Audit	25,000
Telecommunications Relay Service	540,795
Lifeline Credit Reimbursements	1,441,355
Lifeline Administration Expense	150,000
E-911 Appropriation	3,581,929
TTY Distribution Expense	<u>75,000</u>
Total Projected Disbursements	<u>\$5,919,079</u>
Projected FY02 Carryforward Balance	<u>\$1,156,431</u>

As shown above, the current USF surcharge of 1.65 percent would produce revenues sufficient to cover all program costs and yield a year-end balance sufficient to provide a reasonable cushion for unexpected events.

Leaving the rate at 1.65 percent will likely yield a FY02 year-end USF balance

3. In the past, the parties to the VUSF proceedings have recommended that the Board waive any advance notification requirements that may be imposed by its 7/2/99 order in Docket 5903 without advocating a position regarding whether or not the VUSF surcharge constitutes a change in rates or terms and conditions under the meaning of Docket 5903. Typically, a notice is sent to consumers in either July or August following the Board's order implementing the new USF rate to inform them of the change in the rate for the coming fiscal year.

4. See Findings 15 and 16, above.

substantially higher than in years past. However, the prior practice of budgeting for a small carryforward fund balance necessitated a mid-year rate change in FY01 when a modest reduction in retail revenue, partly the result of price reductions at Verizon, contributed to a fund shortfall. Had the fund balance been higher at the beginning of the fiscal year, it might have been possible to make it through the year without a rate change. In addition, although budgeting for the VUSF programs is based upon the monthly accrued revenue and expenses, cash receipts do not necessarily track cash disbursements. For example, some carriers deposit their VUSF collections quarterly, yet their projected contribution is recorded monthly, resulting in a significant difference between fund assessments and actual contributions during many months. In addition, disbursements are not billed to the fund by programs in equal monthly installments, particularly by E-911 which receives the largest share of USF proceeds.

Given the considerable uncertainties relating to the timing of cash inflows and disbursements, risks inherent in forecasting gross telephone revenues, ongoing administrative issues, and projected undercollections which necessitated a mid-year FY01 increase in the surcharge rate, a substantial increase in the projected FY02 fund balance is justified and consistent with ensuring the financial integrity of the fund at this time.⁵ In the upcoming years, the DPS should reexamine the appropriate level of the year-end reserve funding balance and the rationale employed to justify the high FY02 reserve. Given these facts and conclusions, I conclude that the proposed rate of 1.65 percent is appropriate.

The parties have agreed that any Board order issued in this docket should direct LECs to provide notification to their customers of the Lifeline Telephone Program eligibility criteria and application process during either of the first two months of calendar year 2002 in a form prescribed by the DPS. Informing customers ensures broad opportunity for program participation by all qualifying ratepayers.

In the past, the parties have also agreed, and the Board has ordered, that a notice of the change in the USF rate for the upcoming fiscal year be provided to consumers as soon as possible following the Board order establishing the new rate. However, in the present Docket the parties are recommending that the current FY01 rate remain unchanged for FY02, and have agreed that the initial notice, normally sent out in July or August, is therefore not necessary. I concur with

5. I would expect in future years the reserve could be set at a substantially smaller percentage of the total budget. However, as discussed above, the relatively large reserve proposed for FY02 is justified in light of the past variability in costs and revenues.

the parties' recommendations on notice requirements and recommend that the Board adopt them.

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 25th day of June, 2001.

s/Hope G. Crifo
Hope Crifo
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 ("VUSF") charge for Fiscal Year 2002 shall be 1.65 percent. This rate shall go into effect July 1, 2001, and remain in effect through June 30, 2002, unless revised in the manner provided by law.
3. Local exchange carriers shall provide notification to their customers of the Lifeline eligibility criteria and application process during either of the first two months of calendar year 2002. 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. Local exchange carriers need not provide advance notice of the VUSF rate for FY02 because the rate is unchanged from the current rate.
4. The fiscal agent shall pay the following amounts for Fiscal Year 2002, and according to the following priority:
 - a. The fiscal agent shall transfer to its own account not more than \$105,000, but in no event shall transfer more than permitted under the contract between the Board and the fiscal agent, plus \$25,000 for the annual audit of the VUSF per the contract between the fiscal agent and the Board.
 - b. The fiscal agent shall transfer to the State Treasurer, in monthly payments, the annual sum of \$540,795 to support the Vermont Telecommunications Relay Service, plus \$75,000 for the estimated TTY distribution expense as authorized by 30 V.S.A. § 218a(e).
 - 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 \$1,441,355, plus an additional \$150,000 for the administrative cost reimbursement for the Vermont Lifeline program.
 - d. The fiscal agent is authorized to make monthly transfers to the State Treasurer to support enhanced-911 services at an annual rate of \$3,581,929.
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. Hope Crifo 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 27th day of June, 2001

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

OFFICE OF THE CLERK

FILED: June 27, 2001

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.