

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 5918

Designation of Eligible )  
Telecommunications Carriers Under )  
the Telecommunications Act of 1996 )

Order entered: 3/11/2002

**ORDER REGARDING PENALTY**

The Board has previously acted in this docket to designate ten carriers as "Eligible Telecommunications Carriers," thus making them eligible for receipt of federal universal service support under 47 U.S.C. § 254. In a December 31, 2001 Order, the Board directed the ten carriers to show cause why a penalty should not be imposed on them under 30 V.S.A. § 30(a)(2) in an aggregate amount of \$5,000, for failure to make a timely filing to renew those certifications, in accord with procedures described in a 1999 Order. Verizon New England Inc., d/b/a Verizon Vermont, filed a response letter on January 29, 2002, and the remaining nine independent carriers ("Independents") filed a single statement on January 17, 2002 ("responses"). More than 30 days have passed since these filings, and the Department of Public Service ("Department") has not filed anything further.

Based upon the new assertions presented in their responses which were not contested by the Department, we conclude that the ten designated carriers have shown good cause why they did not make timely filings, and we conclude that they should not be subjected to a penalty. While the underlying facts vary slightly, in each case the carrier relied upon an assertion by the Department, made with apparent authority, that the carrier's request for a waiver of the filing deadline would not be contested.<sup>1</sup> Under these facts, we conclude that the ten carriers have shown good cause why they should not be penalized.

At the same time, we reiterate our earlier observation that, in light of the millions of dollars of federally designated support that depends upon such a filing by the companies, it is difficult to see the companies' failure to make a timely filing as insignificant or undeserving of

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1. In Verizon's case, the Department's Telecommunications Director undertook to advise Verizon if the Department had an objection, but never gave such notice. Verizon letter of 1/28/02 at 1. In the Independents' case, the representation assertion was made by a senior Department attorney who had recently been involved in a related telecommunications matter. Show-Cause Statement of Nine Independents at 4, 6.

the management attention necessary to ensure a timely filing. The amount of penalty in issue here, \$5,000, is a pittance in comparison to the tens of millions of dollars of federal universal service support that would be jeopardized by loss of eligibility by Vermont's ten currently certified carriers. We trust that in the future the ten certified carriers will give timely attention to similar certification renewals, the next filing for which is due on or before October 1, 2002.

Dated at Montpelier, Vermont, this 11<sup>th</sup> day of March, 2002.

<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: March 11, 2002

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 apparent 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.*