

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 5903

Investigation into Service Quality Standards,)
Privacy Protections, and other Consumer Safeguards)
for Retail Telecommunications Service)

Order entered: 3/27/97

ORDER RE: MOTIONS TO INTERVENE, TO WAIVE RULE 2.201(c)
AND TO REVISE SCHEDULE

This Procedural Order addresses several motions filed within the last three weeks. On February 26, 1997, the Telecommunications Resellers Association ("TRA") filed a Motion for Leave to Intervene. On March 3, MCI Telecommunications Corporation ("MCI") also filed a Motion to Intervene in this proceeding, as well as a Motion from Scott A. Sawyer for Waiver of Board Rule 2.201(c) and for Leave to Appear *Pro Hac Vice*. And, on March 11, the Department of Public Service ("Department") submitted a letter requesting a modification to the schedule due to the late intervention of MCI and TRI.

Intervention Motions

TRA requests to intervene stating that it is a national trade association representing more than 510 telecommunications service providers and their suppliers, including members that plan to offer local exchange service in Vermont. Thus, TRA argues that it has a "keen interest in, and will be directly affected by, the possible determination by the Board."

MCI's Motion indicates that it is a provider of intrastate toll service and that a subsidiary, MCImetro Access Transmission Services, Inc., has petitioned the Board for a Certificate of Public Good under 30 V.S.A. § 231 to provide local exchange services. MCI states that as a provider of toll services in Vermont and a potential market entrant for the provision of local telecommunications services, MCI will be directly and substantially affected by the outcome of this proceeding.

No party, except the Department, responded to the Motions to Intervene. The Department stated that it had no objection to either intervention, although the Department voiced concern over the timing of the intervention, which occurred just prior to the Department's filing of its testimony (due March 14). The Department also observes that it had not had an opportunity to conduct discovery on either prospective intervenor. Finally, the Department raised concerns that TRA's representative, Mr. Andrew Isar, is not an attorney and has not demonstrated how his participation is allowed under *Vermont Agency of Natural Resources v. Upper Valley Regional Landfill Corp.*, 159 Vt. 454 (1992)(herein cited as "VANR").

I will grant MCI's Motion to Intervene. MCI has demonstrated an interest in the outcome of this proceeding that merits party status. As we are establishing service quality standards for a range of telecommunications services, the additional perspective will be valuable. Accordingly, MCI is admitted as a party to this proceeding. I note, however, that this proceeding has been underway for six months and is almost to the hearing stage. MCI (and TRA) will have to accept the docket with the present schedule. I also grant Mr. Sawyer's Motion for waiver of Board Rule 2.201(c).

I also conditionally grant TRA's Motion to Intervene for the same reasons. The granting of the motion must be conditional because TRA's Motion does not indicate how TRA's participation could be made consistent with Vt. PSB Rule 2.201(B) (which allows representation of entities by a non-attorney) and the Supreme Court's ruling in *VANR*. That case and the Board's rules set out explicit criteria for representation of a group by a non-attorney. TRA should, by April 4, 1997, file a statement addressing its compliance with Rule 2.201(B) and the criteria specified by the Supreme Court. Any party wishing to comment upon that filing should do so on or before April 11, 1997.

Scheduling

The Department, in its response to the two Motions to Intervene, also requested modification of the present schedule in order to allow the Department time to conduct discovery upon MCI and TRA. The Department proposed a revised schedule that it states will provide it sufficient time to pose discovery questions, obtain responses, and prepare testimony.¹

I find that the Motion to Revise the Schedule is reasonable and I grant it. In place of the schedule proposed by the Department, I adopt the schedule that follows. This schedule was agreed to by all of the parties in a Conference call on March 20, 1997.

April 4	DPS files Position Paper
May 2	Other Parties file Responsive Position Papers
May 13	DPS files Rebuttal Position Paper
May 21-23 and 27-28	Technical Hearings
July 10	Initial Briefs
August 1	Reply Briefs

SO ORDERED.

DATED at Montpelier, Vermont, this 27th day of March, 1997.

1. The Department's request states that it seeks a six-week delay in submission of testimony. However, the proposed schedule incorporates only a three-week delay, with hearings one week later than now scheduled. I assume the Department intends its proposed schedule to take precedence over the more generalized six-week extension request.

s/ George E. Young
George E. Young
Hearing Officer

OFFICE OF THE CLERK

FILED: March 27, 1997

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.